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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM361; Special Conditions No. 25–341–SC]

Special Conditions: Boeing Model 757–200 Series Airplanes; High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: The FAA issues these special conditions for Boeing Model 757–200 series airplanes modified by ABX Air, Inc. These modified airplanes will have novel or unusual design features when compared with the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification consists of installing an Innovative Solutions and Support Flat Panel Display System that performs critical functions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for protecting these systems from effects of high-intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is December 20, 2006. We must receive your comments on or before February 2, 2007.

ADDRESSES: You may mail or deliver comments on these special conditions in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM361, 1601 Lind Avenue SW., Renton, Washington 98057–3356. You must mark your comments Docket No. NM361.

FOR FURTHER INFORMATION CONTACT: Greg Dunn, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2799; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that notice and opportunity for prior public comment for these special conditions is impracticable because these procedures would significantly delay certification and delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. We therefore find that good cause exists for making these special conditions effective upon issuance. However, we invite interested persons to take part in this rulemaking by submitting written comments. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about these special conditions. You may inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want the FAA to acknowledge receipt of your comments on these special conditions, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On August 9, 2006, ABX Air, Inc., 145 Hunter Drive, Wilmington, OH 45177, applied for a supplemental type certificate (STC) to modify Boeing Model 757–200 series airplanes. The Boeing Model 757–200 series airplanes are large transport category airplanes powered by either 2 Pratt & Whitney or 2 Rolls-Royce engines. They carry a maximum of 239 passengers. The modification consists of installing the Innovative Solutions and Support (IS&S) Integrated Flat Panel Display System (IFPDS). The avionics/electronics and electrical systems installed in this airplane have a potential to be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Type Certification Basis

Under provisions of 14 CFR 21.101, ABX Air, Inc. must show that the Boeing Model 757–200 series airplanes, as changed, continue to meet applicable provisions of the regulations incorporated by reference in Type Certificate No. A2NM, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The certification basis for Boeing Model 757–200 series airplanes includes applicable sections of 14 CFR part 25 as amended by Amendments 25–1 through 25–45 effective December 1, 1978. In addition, the certification basis includes certain special conditions, exemptions, equivalent levels of safety, or later amended sections of the applicable part 25 that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (part 25, as amended) do not contain adequate or appropriate safety standards for the Boeing Model 757–200 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 757–200 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the

noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in § 11.19, under § 11.38, and they become part of the type certification basis under the provisions of § 21.101.

Novel or Unusual Design Features

As noted earlier, the Boeing Model 757–200 series airplanes modified by ABX Air, Inc. will incorporate an integrated flat panel display system manufactured by IS&S that will perform critical functions. This system may be vulnerable to high-intensity radiated fields external to the airplane. Current airworthiness standards of part 25 do not contain adequate or appropriate safety standards for protecting this equipment from adverse effects of HIRF. So this system is considered to be a novel or unusual design feature.

Discussion

As previously stated, there is no specific regulation that addresses protection for electrical and electronic systems from HIRF. Increased power levels from radio frequency transmitters and the growing use of sensitive avionics/electronics and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Boeing Model 757–200 series airplanes modified by ABX Air, Inc. These special conditions require that new avionics/electronics and electrical systems that perform critical functions be designed and installed to preclude component damage and interruption of function because of HIRF.

High-Intensity Radiated Fields (HIRF)

High-power radio frequency transmitters for radio, radar, television, and satellite communications can adversely affect operation of airplane electric and electronic systems. Therefore, the immunity of critical avionics/electronics and electrical systems to HIRF must be established.

Based on surveys and an analysis of existing HIRF emitters, an adequate level of protection exists if airplane system immunity is demonstrated when exposed to the HIRF environments in either paragraph 1 or 2 below:

1. A minimum environment of 100 volts rms (root-mean-square) per meter electric field strength from 10 KHz to 18 GHz.

a. System elements and their associated wiring harnesses must be exposed to the environment without benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. An environment external to the airframe of the field strengths shown in the table below for the frequency ranges indicated. Immunity to both peak and average field strength components from the table must be demonstrated.

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The environment levels identified above are the result of an FAA review of existing studies on the subject of HIRF and of the work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

These special conditions are applicable to Boeing Model 757–200 series airplanes modified by ABX Air, Inc. Should ABX Air, Inc. apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A2NM to incorporate the same or similar novel or unusual design feature, these special conditions would apply to that model as well under provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on Boeing Model 757–200 series airplanes modified by ABX Air, Inc. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Therefore, under the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the Boeing Model 757–200 series airplanes modified by ABX Air, Inc.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies:

Critical Functions: Functions whose failure would contribute to or cause a failure condition that would prevent continued safe flight and landing of the airplane.

Issued in Renton, Washington, on December 20, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–22436 Filed 12–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26138; Directorate Identifier 2006–NE–38–AD; Amendment 39–14865; AD 2006–26–07]

RIN 2120–AA64

Airworthiness Directives; Turbomeca Model Arrius 2B1, 2B1A, and 2B2 Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct

an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

> A simultaneous interruption of the lubrication on both engines may lead to a double non-commanded in-flight shutdown.

The condition described in the MCAI can lead to a forced autorotation landing or an accident. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective January 18, 2007. The Director of the Federal Register approved the incorporation by reference of certain service bulletins, listed in the AD as of January 18, 2007. We must receive comments on this AD by February 2, 2007.

ADDRESSES: You may send comments by any of the following methods:

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7175; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Discussion

The European Aviation Safety Agency (EASA), which is the aviation authority for European Union, has issued EASA Airworthiness Directive 2006–0142, dated May 29, 2006 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Investigations of incidents which occurred on ARRIUS 2 turboshaft engines have revealed the interruption of engine lubrication further [due] to oil passage blockage within the lubrication unit check valve. This blockage comes from the excessive swelling of the check valve piston o-ring. The level of swelling of the o-ring depends on the class of the oil used (Standard (STD) or High-Thermal Stability (HTS)) and the engine operating time. This phenomenon only affects ARRIUS 2 engines which do not embody modification Tu122 (*i.e.: check-valve piston without o-ring*). A simultaneous interruption of the lubrication on both engines may lead to a double non-commanded in-flight shutdown. The oil usually being the same on both engines, available data put into evidence that this risk has to be considered and that measures to restore the level of safety have to be imposed on ARRIUS 2 engines without modification Tu122 embodied.

The condition described in the MCAI can lead to a forced autorotation landing or an accident. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Turbomeca has issued Mandatory Service Bulletin A319 79 2832, Update 1, dated April 3, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all the information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between the AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements take precedence over the actions copied from the MCAI.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because the compliance time required to correct the unsafe condition, as low as 50 hours in service, is shorter than the time required to collect and respond to comments. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2006–26138; Directorate Identifier 2006–NE–38–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments

received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2006–26–07 Turbomeca: Amendment 39–14865; Docket No. FAA–2006–26138; Directorate Identifier 2006–NE–38–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective January 18, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Turbomeca Model Arrius 2B1, 2B1A, and 2B2 turboshaft engines that do not embody modification TU122. These engines are used on, but not limited to Eurocopter EC135 T1 and T2 helicopters.

Reason

(d) European Aviation Safety Agency (EASA) AD, 2006–0142, dated May 29, 2006 states:

Investigations of incidents which occurred on ARRIUS 2 turboshaft engines have revealed the interruption of engine lubrication further [due] to oil passage blockage within the lubrication unit check valve. This blockage comes from the excessive swelling of the check valve piston o-ring. The level of swelling of the o-ring depends on the class of the oil used (Standard (STD) or High-Thermal Stability (HTS)) and the engine operating time. This phenomenon only affects ARRIUS 2 engines which do not embody modification Tu122 (*i.e.: check-valve piston without o-ring*). A simultaneous interruption of the lubrication on both engines may lead to a double non-commanded in-flight shutdown. The oil usually being the same on both engines, available data put into evidence that this risk has to be considered and that measures to restore the level of safety have to be imposed on ARRIUS 2 engines without modification Tu122 embodied.

The condition described in the EASA AD can lead to a forced autorotation landing or an accident.

Actions and Compliance

(e) Unless already done, do the following actions.

(1) Replace the check-valve piston o-ring according to paragraph 2 of Turbomeca Alert Service Bulletin No A319 79 2832, Update 1, dated April 3, 2006, within the next 50 operating hours when the number of operating hours is greater than:

(i) 300 hours for engines operating with HTS-class oil and engines for which the history of the oils used is not available or engines which used to operate with HTS-class oil and which no longer do so.

(ii) 450 hours for engines operating with STD class-oil since their introduction into service.

(2) Repeat operation of paragraph (1):

(i) Every 300 hours for engines operating with HTS-class oil and engines for which the history of the oils used is not available or engines which used to operate with HTS-class oil and which no longer do so.

(ii) Every 500 hours for engines operating with STD class-oil since their introduction into service.

FAA AD Differences

(f) None.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Contact Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7175; fax (781) 238–7199 for more information about this AD.

(i) Refer to the EASA Mandatory Continuing Airworthiness Information (MCAI) Airworthiness Directive 2006–0142, dated May 29, 2006, and Turbomeca Service Bulletin A319 79 2122, dated March 14, 2006, for related information.

Material Incorporated by Reference

(j) You must use Turbomeca Alert Service Bulletin A319 79 2832, Update 1, dated April 3, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Turbomeca, 40220 Tarnos, France; Telephone (33) 05 59 74 40 00; fax (33) 05 59 74 45 15.

(3) You may review copies at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov//federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on December 21, 2006.

Peter A. White,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E6–22272 Filed 12–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9263]

RIN 1545–BE33

Income Attributable to Domestic Production Activities; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations which were published in the **Federal Register** on Thursday, June 1, 2006, (71 FR 31268), relating to the deduction for income attributable to domestic production activities under section 199 of the Internal Revenue Code (Code).

DATES: This correction is effective June 1, 2006.

FOR FURTHER INFORMATION CONTACT: Paul Handleman or Lauren Ross Taylor at (202) 622–3040 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9263) that are subject to this correction are under section 199 of the Internal Revenue Code.

Need for Correction

On June 1, 2006, final regulations (TD 9263) were published in the **Federal Register** at 71 FR 31268. These regulations contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

§ 1.199–1 [Corrected]

■ **Par. 2.** Section 1.199–1(b)(1) is amended by revising the first sentence of the paragraph to read as follows:

§ 1.199–1 Income attributable to domestic production activities.

* * * * *

(b) * * *

(1) *In general.* For purposes of paragraph (a) of this section, the definition of taxable income under section 63 applies, except that taxable income (or alternative minimum taxable income, if applicable) is determined without regard to section 199 and without regard to any amount excluded from gross income pursuant to section 114 or pursuant to section 101(d) of the American Jobs Creation Act of 2004, Public Law 108–357 (118 Stat. 1418) (Act). * * *

* * * * *

§ 1.199–2 [Corrected]

■ **Par. 3.** Section 1.199–2 is amended by revising the first sentence of paragraph (a)(3)(ii) and the last sentence of paragraph (e)(3) to read as follows:

§ 1.199–2 Wage limitation.

(a) * * *

(3) * * *

(ii) *Corrected return filed to correct a return that was filed within 60 days of the due date.* If a corrected information return (Return B) is filed with SSA on or before the 60th day after the due date (including extensions) of Return B to correct an information return (Return A) that was filed with SSA on or before the 60th day after the due date (including extensions) of the information return (Return A) and paragraph (a)(3)(iii) of this section does not apply, then the wage information on Return B must be included in determining W–2 wages.* * *

* * * * *

(e) * * *

(3) * * * For example, see Rev. Proc. 2006–22 (2006–23 I.R.B. 1033). (see § 601.601(d)(2) of this chapter).

§ 1.199–3 [Corrected]

■ **Par. 4.** Section 1.199–3(l)(4)(iv)(A) is amended by revising the first sentence of the paragraph to read as follows:

§ 1.199–3 Domestic production gross receipts.

* * * * *

(l) * * *

(4) * * *

(iv) * * *

(A) * * * *DPGR.* Notwithstanding paragraphs (l)(4)(i), (ii), and (iii) of this section, if less than 5 percent of a taxpayer's gross receipts derived from a sale, exchange, or other disposition of utilities are attributable to the transmission or distribution of the utilities and the storage of potable water after completion of treatment of the potable water, then the gross receipts derived from the lease, rental, license, sale, exchange, or other disposition of the utilities that are attributable to the transmission and distribution of the utilities and the storage of potable water after completion of treatment of the potable water may be treated as being DPGR (assuming all other requirements of this section are met). * * *

* * * * *

§ 1.199–4 [Corrected]

■ **Par. 5.** Section 1.199–4(d)(6) is amended by revising paragraph

(i) of *Examples 1* and *2* to read as follows:

§ 1.199–4 Costs allocable to domestic production gross receipts.

* * * * *

(d) * * *

(6) * * *

Example 1. * * *

(i) *Facts.* X, a United States corporation that is not a member of an expanded affiliated group (EAG) (as defined in § 1.199–7), engages in activities that generate both DPGR and non-DPGR. All of X's production activities that generate DPGR are within Standard Industrial Classification (SIC) Industry Group AAA (SIC AAA). All of X's production activities that generate non-DPGR are within SIC Industry Group BBB (SIC BBB). X is able to specifically identify CGS allocable to DPGR and to non-DPGR. X incurs $900 of research and experimentation expenses (R&E) that are deductible under section 174, $300 of which are performed with respect to SIC AAA and $600 of which are performed with respect to SIC BBB. None of the R&E is legally mandated R&E as described in § 1.861–17(a)(4) and none of the R&E is included in CGS. X incurs section 162 selling expenses that are not includible in CGS and are definitely related to all of X's gross income. For 2010, the adjusted basis of X's assets is $5,000, $4,000 of which generates gross income attributable to DPGR and $1,000 of which generates gross income attributable to non-DPGR. For 2010, X's taxable income is $1,380 based on the following Federal income tax items: * * *

* * * * *

Example 2. * * *

(i) *Facts.* The facts are the same as in *Example 1* except that X owns stock in Y, a United States corporation, equal to 75% of the total voting power of stock of Y and 80% of the total value of stock in Y. X and Y are

not members of an affiliated group as defined in section 1504(a). Accordingly, the rules of § 1.861–14T do not apply to X's and Y's selling expenses, R&E, and charitable contributions. X and Y are, however, members of an affiliated group for purposes of allocating and apportioning interest expense (see § 1.861–11T(d)(6)) and are also members of an EAG. For 2010, the adjusted basis of Y's assets is $45,000, $21,000 of which generates gross income attributable to DPGR and $24,000 of which generates gross income attributable to non-DPGR. All of Y's activities that generate DPGR are within SIC Industry Group AAA (SIC AAA). All of Y's activities that generate non-DPGR are within SIC Industry Group BBB (SIC BBB). None of X's and Y's sales are to each other. Y is not able to specifically identify CGS allocable to DPGR and non-DPGR. In this case, because CGS is definitely related under the facts and circumstances to all of Y's gross receipts, apportionment of CGS between DPGR and non-DPGR based on gross receipts is appropriate. For 2010, Y's taxable income is $1,910 based on the following Federal income tax items: * * *

* * * * *

§ 1.199–6 [Corrected]

■ **Par. 6.** Section 1.199–6 is amended as follows:

■ 1. The last sentence of paragraph (g), is revised.

■ 2. The last sentence of *Example 2* (i) in paragraph (m) is revised.

The revisions read as follows:

§ 1.199–6 Agricultural and horticultural cooperatives.

* * * * *

(g) *Written notice to patrons.* * * * The cooperative must report the amount of the patron's section 199 deduction on Form 1099–PATR, ''Taxable Distributions Received From Cooperatives,'' issued to the patron.

* * * * *

(m) * * *

Example 2. (i) * * * Cooperative X must report the amount of Patron A's section 199 deduction on Form 1099–PATR, ''Taxable Distributions Received From Cooperatives,'' issued to Patron A for the calendar year 2008.

* * * * *

§ 1.199–7 [Corrected]

■ **Par. 7.** Section 1.199–7 is amended as follows:

■ 1. *Example 3* in paragraph (a)(4) is revised.

■ 2. *Example 10* in paragraph (e) is revised.

The revisions read as follows:

§ 1.199–7 Expanded affiliated groups.

(a) * * *

(4) * * *

Example 3. The facts are the same as in *Example 2* except that rather than reselling the machinery, B rents the machinery to unrelated persons and B takes the gross receipts attributable to the rental of the machinery into account under its methods of accounting in 2007, 2008, and 2009. In addition, as of the close of business on December 31, 2008, A and B cease to be members of the same EAG. With respect to the machinery acquired from C and the unrelated persons, B's gross receipts attributable to the rental of the machinery in 2007, 2008, and 2009 are non-DPGR because no member of the EAG MPGE the machinery and because C does not qualify as an EAG partnership. With respect to machinery acquired from A, B's gross receipts in 2007 and 2008 attributable to the rental of the machinery are DPGR because at the time B takes into account the gross receipts derived from the rental of the machinery under its methods of accounting, B is a member of the same EAG as A and B is treated as conducting A's previous MPGE activities. However, with respect to the rental receipts in 2009, because A and B are not members of the same EAG in 2009, B's rental receipts are non-DPGR.

* * * * *

(e) * * *

Example 10. (i) *Facts.* Corporation P owns all of the stock of Corporations S and T, and P, S, and T file a consolidated Federal income tax return on a calendar year basis. In 2007, P MPGE QPP in the United States at a cost of $1,000. On November 30, 2007, P sells the QPP to S for $2,500. On February 28, 2008, P disposes of 60% of the stock of S. On June 30, 2008, S sells the QPP to an unrelated person for $3,000.

* * * * *

§ 1.199–8 [Corrected]

■ **Par. 8.** Section 1.199–8 is amended by revising paragraph (h) to read as follows:

§ 1.199–8 Other rules.

* * * * *

(h) *Disallowed losses or deductions.* Except as provided by publication in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(*b*) of this chapter), losses or deductions of a taxpayer that otherwise would be taken into account in computing the taxpayer's section 199 deduction are taken into account only if and to the extent the deductions are not disallowed by section 465 or 469, or any other provision of the Code. If only a portion of the taxpayer's share of the losses or deductions is allowed for a taxable year, the proportionate share of those allowable losses or deductions that are allocated to the taxpayer's qualified production activities, determined in a manner consistent with sections 465 and 469, and any other applicable provision of the Code, is taken into account in computing QPAI for purposes of the section 199 deduction for that taxable year. To the extent that any of the disallowed losses or deductions are allowed in a later year, the taxpayer takes into account a proportionate share of those losses or deductions in computing it QPAI for that later taxable year. Losses or deductions of the taxpayer that are disallowed for taxable years beginning on or before December 31, 2004, are not taken into account in a later year for purposes of computing the taxpayer's QPAI and the wage limitation of section 199(d)(1)(A)(iii) under § 1.199–9 for that taxable year, regardless of whether the losses or deductions are allowed for other purposes. For taxpayers that are partners in partnerships, see § 1.199–9(b)(2). For taxpayers that are shareholders in S corporations, see § 1.199–9(c)(2).

* * * * *

§ 1.199–9 [Corrected]

■ **Par. 9.** Section 1.199–9(b)(6) is amended as follows:

■ 1. By revising *Example 1* paragraphs (i), (iii)(B)(*1*), and the seventh sentence of (iii)(B)(*2*).

■ 2. By revising *Example 2* paragraphs (i), and (iii)(B)(*1*), and the table following (iii)(B)(*3*).

■ 3. Paragraph (h) is revised.

The revisions read as follows:

§ 1.199–9 Application of section 199 to pass-thru entities for taxable years beginning on or before May 17, 2006, the enactment date of the Tax Increase Prevention and Reconciliation Act of 2005.

* * * * *

(b) * * *

(6) * * *

Example 1. * * * (i) *Partnership Federal income tax items.* X and Y, unrelated United States corporations, are each 50% partners in PRS, a partnership that engages in production activities that generate both DPGR and non-DPGR. X and Y share all items of income, gain, loss, deduction, and credit 50% each. Both X and Y are engaged in a trade or business. PRS is not able to specifically identify CGS allocable to DPGR and non-DPGR. In this case, because CGS is definitely related under the facts and circumstances to all of PRS's gross income, apportionment of CGS between DPGR and non-DPGR based on gross receipts is appropriate. For 2006, the adjusted basis of PRS's business assets is $5,000, $4,000 of which generate gross income attributable to DPGR and $1,000 of which generate gross income attributable to non-DPGR. For 2006, PRS has the following Federal income items:

* * *

* * * * *

(iii) * * *

(B) * * * (*1*) For 2006, in addition to the activities of PRS, Y engages in production activities that generate both DPGR and non-DPGR. Y is able to specifically identify CGS allocable to DPGR and to non-DPGR. For 2006, the adjusted basis of Y's non-PRS assets attributable to its production activities that generate DPGR is $8,000 and to other

production activities that generate non-DPGR is $2,000. Y has no other assets. Y has the following Federal income tax items relating to its non-PRS activities: * * *

(*2*) * * * Y has $1,290 of gross income attributable to DPGR ($3,000 DPGR ($1,500 from PRS and $1,500 from non-PRS activities)—$1,710 CGS ($810 from PRS and $900 from non-PRS activities)). * * *

* * * * *

Example 2. * * * (i) *Partnership items of income, gain, loss, deduction or credit.* X and Y, unrelated United States corporations each of which is engaged in a trade or business, are partners in PRS, a partnership that engages in production activities that generate both DPGR and non-DPGR. Neither X nor Y is a member of an affiliated group. X and Y share all items of income, gain, loss, deduction, and credit 50% each. All of PRS's domestic production activities that generate DPGR are within Standard Industrial Classification (SIC) Industry Group AAA (SIC AAA). All of PRS's production activities that generate non-DPGR are within SIC Industry Group BBB (SIC BBB). PRS is not able to specifically identify CGS allocable to DPGR and to non-DPGR and, therefore, apportions CGS to DPGR and non-DPGR based on its gross receipts. PRS incurs $900 of research and experimentation expenses (R&E) that are deductible under section 174, $300 of which are performed with respect to SIC AAA and $600 of which are performed with respect to SIC BBB. None of the R&E is legally mandated R&E as described in § 1.861–17(a)(4) and none is included in CGS. PRS incurs section 162 selling expenses (that include W–2 wage expense) that are not includible in CGS and are definitely related to all of PRS's gross income. For 2006, PRS has the following Federal income tax items: * * *

* * * * *

(iii) * * *

(B) * * * (*1*) For 2006, in addition to the activities of PRS, Y engages in domestic production activities that generate both DPGR and non-DPGR. With respect to those non-PRS activities, Y is not able to specifically identify CGS allocable to DPGR and to non-DPGR. In this case, because CGS is definitely related under the facts and circumstances to all of Y's non-PRS gross receipts, apportionment of CGS between DPGR and non-DPGR based on Y's non-PRS gross receipts is appropriate. For 2006, Y has the following non-PRS Federal income tax items: * * *

* * * * *

(*3*) * * *

DPGR ($4,500 DPGR ($1,500 from PRS and $3,000 from non-PRS activities))	$4,500
CGS ($600 from sales of products by PRS and $1,500 from non-PRS activities)	(2,100)
Section 162 selling expenses (including W–2 wages) ($420 from PRS + $540 from non-PRS activities) x ($4,500 DPGR/$9,000 total gross receipts)	(480)
Section 174 R&E–SIC AAA ($150 from PRS and $300 from non-PRS activities)	(450)
Section 174 R&E–SIC BBB ($300 from PRS + $450 from non-PRS activities) x ($1,500 DPGR/$6,000 total gross receipts allocated to SIC BBB ($1,500 from PRS and $4,500 from non-PRS activities))	(188)
Y's QPAI	1,282

* * * * *

(h) * * * Except as provided in paragraph (i) of this section regarding qualifying in-kind partnerships and paragraph (j) of this section regarding EAG partnerships, an owner of a pass-thru entity is not treated as conducting the qualified production activities of the pass-thru entity, and vice versa. This rule applies to all partnerships, including partnerships that have elected out of subchapter K under section 761(a). Accordingly, if a partnership MPGE QPP within the United States, or produces a qualified film or produces utilities in the United States, and distributes or leases, rents, licenses, sells, exchanges, or otherwise disposes of such property to a partner who then, without performing its own qualifying MPGE or other production, leases, rents, licenses, sells, exchanges, or otherwise disposes of such property, then the partner's gross receipts from this latter lease, rental, license, sale, exchange, or other disposition are treated as non-DPGR. In addition, if a partner MPGE QPP within the United States, or produces a qualified film or produces utilities in the United States, and contributes or leases, rents, licenses, sells, exchanges, or otherwise disposes of such property to a partnership which then, without performing its own qualifying MPGE or other production, leases, rents, licenses, sells, exchanges, or otherwise disposes of such property, then the partnership's gross receipts from this latter disposition are treated as non-DPGR.

* * * * *

Guy R. Traynor,

Federal Register Liaison, Legal Processing Division, Associate Chief Counsel (Procedure & Administration).

[FR Doc. E6–22019 Filed 12–29–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1915

[Docket No. S–051A]

RIN 1218–AC16

Updating National Consensus Standards in OSHA's Standard for Fire Protection in Shipyard Employment

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule; confirmation of effective date.

SUMMARY: OSHA is confirming the effective date of its direct final rule for shipyards that incorporated by reference 19 National Fire Protection Association (NFPA) standards. The direct final rule stated that it would become effective on January 16, 2007 unless significant adverse comment was received by November 16, 2006. No adverse comments were received. Therefore, the rule will become effective on January 16, 2007.

DATES: The direct final rule published on October 17, 2006 (71 FR 60843) is effective January 16, 2007. For the purpose of judicial review, OSHA considers January 3, 2007 as the date of issuance.

FOR FURTHER INFORMATION CONTACT: *Press Inquiries:* Kevin Ropp, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–1999. *General and technical information:* Jim Maddux, Director, Office of Maritime, Directorate of Standards and Guidance, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1968.

ADDRESSES: In compliance with 28 U.S.C. 2112(a), OSHA designates the Associate Solicitor for Occupational Safety and Health as the recipient of petitions for review of the final standard. The Associate Solicitor may be contacted at the Office of the Solicitor, Room S–4004, U.S. Department of Labor, 200 Constitution

Avenue, NW., Washington, DC 20210, telephone: (202) 693–5445.

SUPPLEMENTARY INFORMATION: This direct final rulemaking applies to shipyard employment as defined at 29 CFR 1915.4. It updates NFPA standards incorporated by reference in the shipyard fire protection standard (29 CFR Part 1915, Subpart P) issued by OSHA on September 15, 2004 by replacing the older versions of NFPA consensus standards with the most current versions (see 69 FR 55668).

On October 17, 2006, OSHA published a direct final rule in the **Federal Register** with a statement that the rule would go into effect unless a significant adverse comment was received within a specified period of time (see 71 FR 60843). An associated proposed rule was also published at the same time (see 71 FR 60932). In both the direct final rule and proposed rule notices, OSHA requested comments on all issues related to this action. OSHA received only one comment on the direct final rule, which supported the rulemaking. Since no adverse comments were received, the direct final rule will become effective on January 16, 2007.

As discussed in the October 17th direct final rule and the associated proposed rule, OSHA will not proceed with the proposed rule.

Authority and Signature

This document was prepared under the direction of Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order 5–2002 (67 FR 65008); and 29 CFR part 1911.

Signed at Washington, DC this 18th day of December, 2006.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor.

[FR Doc. E6–22189 Filed 12–29–06; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AK65

Filipino Veterans' Benefits Improvements

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations to implement Public Law 108–183, the Veterans Benefits Act of 2003. This public law added service in the Philippine Scouts as qualifying service for payment of compensation, dependency and indemnity compensation (DIC), and monetary burial benefits at the full-dollar rate, and provided for payment of DIC at the full-dollar rate to survivors of certain veterans of the Philippine Commonwealth Army and recognized guerrilla forces who lawfully reside in the United States. This document adopts the interim final rule, which was published in the **Federal Register** on February 16, 2006 at 71 FR 8215, as a final rule with a technical correction.

DATES: *Effective Date:* This amendment is effective January 3, 2007.

FOR FURTHER INFORMATION CONTACT: Bill Russo, Chief, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington DC, 20420, (202) 273–7210.

SUPPLEMENTARY INFORMATION: On December 27, 2001, VA published an interim final rule in the **Federal Register** for notice and comment (66 FR 66763) amending VA adjudication regulations to reflect changes made by two public laws. First, Public Law 106–377, The Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 2001, changed the rate of compensation payments to certain veterans of the Philippine Commonwealth Army and recognized guerrilla forces who reside in the United States. Second, Public Law 106–419, the Veterans Benefits and Health Care Improvement Act of 2000, changed the amount of monetary burial benefits that VA will pay to survivors of certain veterans of the Philippine Commonwealth Army and recognized guerrilla forces who lawfully reside in the United States at death. On February 16, 2006, VA published in the **Federal Register** (71 FR 8215) a final rule adopting the interim final rule with changes and responding to public comments. Included with this final rule was an interim final rule that implemented Public Law 108–183 and solicited comments on these regulatory amendments only. Interested persons were invited to submit written comments on or before March 20, 2006. We did not receive any comments.

We are making one change to 38 CFR 3.42(c)(4)(ii) as a technical correction. We determined that there was an error in the text of the interim final rule, as published on February 16, 2006. Section 3.42(c)(4)(ii) incorrectly stated, ''A Post Office box mailing address in the veteran's name does not constitute evidence showing that the veteran was lawfully residing in the United States on the date of death.'' The proof of residence requirements in § 3.42(c)(4) apply to both compensation benefits paid to veterans and dependency and indemnity compensation benefits paid to veterans' survivors, but the interim final rule in § 3.42(c)(4)(ii) incorrectly referred only to veterans. Moreover, the reference to ''date of death'' is incorrect; that criterion would only apply in a claim for full-dollar burial benefits under § 3.43. We are therefore correcting § 3.42(c)(4)(ii) to state, ''A Post Office box mailing address in the veteran's name or the name of the veteran's survivor does not constitute evidence showing that the veteran or veteran's survivor is lawfully residing in the United States.''

Based on the rationale stated in the interim final rule published on February 16, 2006, and in this document, the interim final rule is adopted as a final rule with a technical correction.

Paperwork Reduction Act

All collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521) referenced in this final rule have existing OMB approval as a form under control number 2900–0655. No changes are made in this final rule to those collections of information.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, under 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Order classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it meets any one of a number of

specified conditions, including: having an annual effect on the economy of $100 million or more, creating a serious inconsistency or interfering with an action of another agency, materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. VA has examined the economic, legal, and policy implications of this final rule and has concluded that it is not a significant regulatory action under Executive Order 12866 because it merely provides a technical correction to the interim final rule.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This rule will have no such effect on State, local, or tribal governments, or the private sector.

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles are 64.100, Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces; 64.101, Burial Expenses Allowance for Veterans; 64.104, Pension for Non-Service-Connected Deaths for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; 64.106, Specially Adapted Housing for Disabled Veterans; 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: August 10, 2006.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

■ Accordingly, the interim final rule amending 38 CFR part 3 which was published at 71 FR 8215 on February 16, 2006, is adopted as a final rule with the following technical correction:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. In § 3.42, revise paragraph (c)(4)(ii) and add the information collection parenthetical at the end of the section to read as follows:

§ 3.42 Compensation at the full-dollar rate for certain Filipino veterans or their survivors residing in the United States.

* * * * *

(c) * * *

(4) * * *

(ii) A Post Office box mailing address in the veteran's name or the name of the veteran's survivor does not constitute evidence showing that the veteran or veteran's survivor is lawfully residing in the United States.

* * * * *

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0655.)

§ 3.43 Burial benefits at the full-dollar rate for certain Filipino veterans residing in the United States on the date of death.

■ 3. In § 3.43, add the information collection parenthetical at the end of the section to read as follows:

* * * * *

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0655.)

[FR Doc. E6–22501 Filed 12–29–06; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2005–CA–0011, FRL–8259–9]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP). These revisions concern the permitting of air pollution sources. We are approving local rules under authority of the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on March 5, 2007 without further notice, unless EPA receives adverse comments by February 2, 2007. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2005–CA–0011, by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov*. Follow the on-line instructions.
- *E-mail: R9airpermits@epa.gov*.
- *Mail or deliver:* Gerardo Rios (Air–3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or e-mail. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Manny Aquitania, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 972–3977, *aquitania.manny@epa.gov*.

SUPPLEMENTARY INFORMATION:
Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board.

TABLE 1.—SUBMITTED RULES

Local Agency	Rule No.	Rule title	Revised	Submitted
ICAPCD	201	Permits Required	09/14/99	05/26/00
ICAPCD	203	Transfer	09/14/99	05/26/00
ICAPCD	205	Cancellation of Applications	09/14/99	05/26/00
ICAPCD	206	Processing of Applications	09/14/99	05/26/00
ICAPCD	208	Permit to Operate	09/14/99	05/26/00

On October 6, 2000 these rule submittals were found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

We approved a version of Rule 201 into the SIP on January 27, 1981 (46 FR 8472). We approved a version of Rules 203 and 205 into the SIP on February 3, 1989 (54 FR 5448). We approved a version of Rule 208 into the SIP on November 10, 1980 (45 FR 74480). There is no version of Rule 206 in the SIP.

C. What is the purpose of the submitted rules or rule revisions?

These rules describe administrative provisions and definitions that support emission controls found in other local agency requirements. In combination with the other requirements, these rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193).

The purposes of the new rule are as follows:

- Rule 206 provides extensive guidelines for the Air Pollution Control Officer to process an application for a permit; specifies required standards for actions on applications; and defines ministerial permits and discretionary permits.

The purposes of rule revisions relative to the SIP rule are as follows:

- Rule 201 adds the requirement for an Authority to Construct (ATC) in addition to a Permit to Operate (PTO); clarifies that the types of permits regulated by Rules 420, 421, and 701 are not part of Rule 201; and specifies requirements for posting of a permit.
- Rule 203 is reformatted.
- Rule 205 adds a reference to the (California) Health and Safety Code.
- Rule 208 moves to Rule 207 the standards for a Permit to Operate, including offset requirements; adds a requirement for the APCO to inspect the facility to determine compliance; adds a provision for existing facilities without an ATC to obtain a PTO; and adds a provision to permit certain movable equipment where no construction is required.

The TSD has more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

These rules describe administrative requirements and definitions that support emission controls found in other local agency requirements. In combination with the other requirements, these rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193).

Guidance and policy documents that we used to help evaluate enforceability requirements consistently include the following:

- *Review of New Sources and Modifications*, U.S. EPA, 40 CFR part 51, subpart I, sections 161–165.
- *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations*, EPA (May 25, 1988). (The Blue Book)
- *Guidance Document for Correcting Common VOC & Other Rule Deficiencies*, EPA Region 9, (August 21, 2001). (The Little Bluebook)

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The TSD has more information on our evaluation.

C. EPA recommendations to further improve the rules

The TSD describes additional revisions to Rules 201 and 205 that do not affect EPA's current action but are recommended for the next time the local agency modifies the rule.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted ICAPCD Rules 201, 203, 205, 206, and 208 because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by February 2, 2007, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on March 5, 2007. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this direct final rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 5, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: November 30, 2006.

Wayne Nastri,

Regional Administrator, Region IX.

■ Part 52, Chapter I, Title 40 of the Code of Federal Regulation is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(279)(i)(A)(*12*), (*13*), and (*14*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(279) * * *

(i) * * *

(A) * * *

(*12*) Rule 201, adopted prior to October 15, 1979 and revised on September 14, 1999.

(*13*) Rule 208, adopted March 17, 1980 and revised on September 14, 1999.

(*14*) Rules 203, 205, and 206, adopted on November 19, 1985 and revised on September 14, 1999.

* * * * *

[FR Doc. E6–22420 Filed 12–29–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2006–0590; FRL–8260–1]

Approval and Promulgation of Implementation Plans; Revisions to the Nevada State Implementation Plan; Requests for Rescission

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve certain revisions to the Nevada State Implementation Plan (SIP) and to disapprove certain other revisions. These revisions involve rules and statutory provisions for which the State of Nevada is requesting rescission. EPA is also taking final action to approve certain updated statutory provisions submitted by the State of Nevada as replacements for outdated statutory provisions in the applicable plan. These actions were proposed in the **Federal Register** on August 28, 2006. The intended effect is to rescind unnecessary provisions from the applicable plan, retain necessary provisions, and approve replacement provisions for certain statutes for which rescissions are disapproved.

DATES: *Effective Date:* This rule is effective on February 2, 2007.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2006–0590 for this action. The index to the docket is available electronically at *http://regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available in either location (*e.g.*, CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, EPA Region IX, (415) 947–4126, *rose.julie@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. Proposed Action

On August 28, 2006 (71 FR 50875), EPA proposed approval of certain revisions to the Nevada SIP and disapproval of certain other revisions. These revisions involve rules and statutory provisions previously approved into the Nevada SIP but for which the State of Nevada is requesting rescission. EPA also proposed approval of certain updated statutory provisions submitted by the State of Nevada as replacements for outdated statutory provisions in the applicable plan. Our August 28, 2006 proposed rule represents one of a series of rulemakings we are conducting on a large SIP revision submitted by the State of Nevada on January 12, 2006 in which the State requests approval of numerous new or amended rules and statutory provisions and requests rescission of numerous other rules and statutory provisions in the existing SIP. Our August 28, 2006 proposed rule sets forth our evaluation and proposed action on the vast majority of the rescission requests included in the State's January 12, 2006 SIP revision submittal.

In our August 28, 2006 proposed rule, we made final approval of those requests for rescission that we proposed to approve contingent upon the receipt of certain public notice and hearing documentation from the State of Nevada. The appropriate documentation has been submitted for the provisions listed below in table 1, and we are taking final action on them today.[1] A separate final rule will be published for the remainder of the provisions for which rescission was requested (and proposed for approval) after the public notice and hearing documentation has been submitted. A third final rule will be published for the rescission of the Federal implementation plan promulgated by EPA at 40 CFR 52.1475 (c), (d) and (e), which was also proposed for rescission in our August 28, 2006 proposed rule.

The majority of the provisions in table 1 represents defined terms that, although approved by EPA and therefore made part of the applicable SIP, are not relied upon by any rule or statutory provision in the existing applicable SIP or in any rule or statutory provision included in the SIP revision submitted on January 12, 2006 and thus are unnecessary and appropriate for rescission. For the other SIP provisions listed in table 1, we proposed approval of the State's rescission requests because we found them to be unnecessary because they are not needed generally in a SIP under CAA section 110(a)(2) or under 40 CFR part 51 or because there are other federally enforceable provisions that would provide equivalent or greater control. Our proposed rule and related Technical Support Document (TSD) contain more information on these SIP provisions and our evaluation of the related rescission requests.

TABLE 1.—SIP PROVISIONS FOR WHICH THE STATE'S RESCISSION REQUEST IS APPROVED

SIP provision	Title	Submittal date	Approval date
NAC 445.440	Aluminum equivalent	10/26/82	03/27/84
NAC 445.442	Anode bake plant	10/26/82	03/27/84
NAC 445.443	Asphalt concrete plant	10/26/82	03/27/84
NAC 445.446	Barite dryer	10/26/82	03/27/84
NAC 445.451	Basic oxygen process furnace	10/26/82	03/27/84
NAC 445.453	Bituminous coal	10/26/82	03/27/84
NAC 445.454	Blast furnace	10/26/82	03/27/84
NAC 445.455	Blowing tap	10/26/82	03/27/84
NAC 445.456	Brass or bronze	10/26/82	03/27/84
NAC 445.459	Calcium carbide	10/26/82	03/27/84
NAC 445.460	Calcium silicon	10/26/82	03/27/84
NAC 445.461	Capture system	10/26/82	03/27/84
NAC 445.462	Charge chrome	10/26/82	03/27/84
NAC 445.463	Charge period	10/26/82	03/27/84
NAC 445.465	Coal preparation plant	10/26/82	03/27/84
NAC 445.466	Coal processing and conveying equipment	10/26/82	03/27/84
NAC 445.467	Coal refuse	10/26/82	03/27/84
NAC 445.468	Coal storage system	10/26/82	03/27/84
NAC 445.469	Coke burn-off	10/26/82	03/27/84
NAC 445.474	Commercial fuel oil	10/26/82	03/27/84
NAC 445.475	Complex source	10/26/82	03/27/84
NAC 445.476	Condensate	10/26/82	03/27/84
NAC 445.481	Control device	10/26/82	03/27/84
NAC 445.483	Copper converter	10/26/82	03/27/84
NAC 445.484	Custody transfer	10/26/82	03/27/84

[1] Table 1 in this notice differs from the corresponding table in the proposed rule in that it does not include 12 rules or statutory provisions for which the State has not yet provided documentation related to public participation and for which final action is being deferred pending receipt of this documentation from the State. These 12 rules or statutory provisions are listed in table 4 of this notice. In addition, we are finalizing the proposed rescission of the Federal implementation plan at 40 CFR 52.1475(c), (d), and (e), which relates to the former Kennecott Copper Company smelter located in White Pine County, in a separate notice.

TABLE 1.—SIP PROVISIONS FOR WHICH THE STATE'S RESCISSION REQUEST IS APPROVED—Continued

SIP provision	Title	Submittal date	Approval date
NAC 445.485	Cyclonic flow	10/26/82	03/27/84
NAC 445.487	Diesel fuel	10/26/82	03/27/84
NAC 445.489	Direct shell evacuation system	10/26/82	03/27/84
NAC 445.490	Drilling and production facility	10/26/82	03/27/84
NAC 445.491	Dross reverberatory furnace	10/26/82	03/27/84
NAC 445.493	Dust handling equipment	10/26/82	03/27/84
NAC 445.494	Dusts	10/26/82	03/27/84
NAC 445.495	Electric arc furnace	10/26/82	03/27/84
NAC 445.496	Electric furnace	10/26/82	03/27/84
NAC 445.497	Electric smelting furnace	10/26/82	03/27/84
NAC 445.498	Electric submerged arc furnace	10/26/82	03/27/84
NAC 445.502	Equivalent P_2O_5 feed	10/26/82	03/27/84
NAC 445.503	Equivalent P_2O_5 stored	10/26/82	03/27/84
NAC 445.509	Ferrochrome silicon	10/26/82	03/27/84
NAC 445.510	Ferromanganese silicon	10/26/82	03/27/84
NAC 445.511	Ferrosilicon	10/26/82	03/27/84
NAC 445.514	Fossil fuel-fired steam generating unit	10/26/82	03/27/84
NAC 445.515	Fresh granular triple superphosphate	10/26/82	03/27/84
NAC 445.518	Fuel gas	10/26/82	03/27/84
NAC 445.519	Fuel gas combustion device	10/26/82	03/27/84
NAC 445.522	Furnace charge	10/26/82	03/27/84
NAC 445.523	Furnace cycle	10/26/82	03/27/84
NAC 445.524	Furnace power input	10/26/82	03/27/84
NAC 445.526	Granular diammonium phosphate plant	10/26/82	03/27/84
NAC 445.527	Granular triple super-phosphate storage facility	10/26/82	03/27/84
NAC 445.528	Heat time	10/26/82	03/27/84
NAC 445.529	High-carbon ferrochrome	10/26/82	03/27/84
NAC 445.530	High level of volatile impurities	10/26/82	03/27/84
NAC 445.531	High terrain	10/26/82	03/27/84
NAC 445.532	Hydrocarbon	10/26/82	03/27/84
NAC 445.534	Isokinetic sampling	10/26/82	03/27/84
NAC 445.539	Low terrain	10/26/82	03/27/84
NAC 445.543	Meltdown and refining	10/26/82	03/27/84
NAC 445.544	Meltdown and refining period	10/26/82	03/27/84
NAC 445.546	Molybdenum	10/26/82	03/27/84
NAC 445.547	Molybdenum processing plant	10/26/82	03/27/84
NAC 445.551	Nitric acid production unit	10/26/82	03/27/84
NAC 445.566	Petroleum liquids	10/26/82	03/27/84
NAC 445.567	Petroleum refinery	10/26/82	03/27/84
NAC 445.568	Pneumatic coal-cleaning equipment	10/26/82	03/27/84
NAC 445.572	Potroom	10/26/82	03/27/84
NAC 445.573	Potroom group	10/26/82	03/27/84
NAC 445.576	Primary aluminum reduction plant	10/26/82	03/27/84
NAC 445.577	Primary control system	10/26/82	03/27/84
NAC 445.578	Primary copper smelter	10/26/82	03/27/84
NAC 445.579	Primary lead smelter	10/26/82	03/27/84
NAC 445.580	Primary zinc smelter	10/26/82	03/27/84
NAC 445.582	Process gas	10/26/82	03/27/84
NAC 445.583	Process upset gas	10/26/82	03/27/84
NAC 445.586	Product change	10/26/82	03/27/84
NAC 445.587	Proportional sampling	10/26/82	03/27/84
NAC 445.591	Refinery process unit	10/26/82	03/27/84
NAC 445.593	Reid vapor pressure	10/26/82	03/27/84
NAC 445.594	Reverberatory furnace	10/26/82	03/27/84
NAC 445.595	Reverberatory smelting furnace	10/26/82	03/27/84
NAC 445.598	Roof monitor	10/26/82	03/27/84
NAC 445.600	Run-of-pile triple superphosphate	10/26/82	03/27/84
NAC 445.602	Secondary control system	10/26/82	03/27/84
NAC 445.603	Secondary lead smelter	10/26/82	03/27/84
NAC 445.604	Shop	10/26/82	03/27/84
NAC 445.605	Shop opacity	10/26/82	03/27/84
NAC 445.608	Silicomanganese	10/26/82	03/27/84
NAC 445.609	Silicomanganese zirconium	10/26/82	03/27/84
NAC 445.610	Silicon metal	10/26/82	03/27/84
NAC 445.611	Silvery iron	10/26/82	03/27/84
NAC 445.614	Sinter bed	10/26/82	03/27/84
NAC 445.615	Sintering machine	10/26/82	03/27/84
NAC 445.616	Sintering machine discharge end	10/26/82	03/27/84
NAC 445.619	Smelting	10/26/82	03/27/84
NAC 445.620	Smelting furnace	10/26/82	03/27/84
NAC 445.626	Standard ferromanganese	10/26/82	03/27/84

TABLE 1.—SIP PROVISIONS FOR WHICH THE STATE'S RESCISSION REQUEST IS APPROVED—Continued

SIP provision	Title	Submittal date	Approval date
NAC 445.629	Steel production cycle	10/26/82	03/27/84
NAC 445.631	Storage vessel	10/26/82	03/27/84
NAC 445.632	Structure, building, facility or installation	10/26/82	03/27/84
NAC 445.634	Sulfuric acid plant	10/26/82	03/27/84
NAC 445.635	Sulfuric acid production unit	10/26/82	03/27/84
NAC 445.636	Superphosphoric acid plant	10/26/82	03/27/84
NAC 445.637	Tapping	10/26/82	03/27/84
NAC 445.638	Tapping period	10/26/82	03/27/84
NAC 445.639	Tapping station	10/26/82	03/27/84
NAC 445.640	Thermal dryer	10/26/82	03/27/84
NAC 445.641	Thermit process	10/26/82	03/27/84
NAC 445.642	Total fluorides	10/26/82	03/27/84
NAC 445.643	Total smelter charge	10/26/82	03/27/84
NAC 445.644	Transfer and loading system	10/26/82	03/27/84
NAC 445.645	Triple superphosphate plant	10/26/82	03/27/84
NAC 445.646	True vapor pressure	10/26/82	03/27/84
NAC 445.648	Vapor recovery system	10/26/82	03/27/84
NAC 445.652	Weak nitric acid	10/26/82	03/27/84
NAC 445.654	Wet-process phosphoric acid plant	10/26/82	03/27/84
Article 2.7.4	Confidential Information	12/10/76	08/21/78
Articles 2.10.1 and 2.10.1.1	Appeal procedures	01/28/72	05/31/72
Articles 2.10.1.2, 2.10.2 and 2.10.3	Appeal procedures	10/31/75	01/09/78
Article 3.3.4	Stop orders	01/28/72	05/31/72
Article 4.3.4	Emissions from any mobile equipment	01/28/72	05/31/72
Article 7.2.5	Basic Refractory	11/05/80	06/18/82
Article 7.2.9	Sierra Chemical Co.	11/05/80	06/18/82
Article 8.1	Primary Non-Ferrous Smelters	06/14/74	02/06/75
Articles 8.1.1, 8.1.2, & 8.1.4	Primary Non-Ferrous Smelters	10/31/75	01/09/78
Article 8.3.4	Basic	11/05/80	06/18/82
Article 16.3.1.2	Regulations controlling cement (Applying to Portland cement plants)	12/29/78	06/18/82
Articles 16.3.2, 16.3.2.1, & 16.3.2.2	Standard of particulate matter for clinker cooler (Applying to Portland cement plants).	12/29/78	06/18/82
Article 16.15	Primary lead smelters	12/29/78	06/18/82
Articles 16.15.1 to 16.15.1.2	Standard for Particulate Matter (Applying to primary lead smelters)	12/29/78	06/18/82
Articles 16.15.2 to 16.15.2.2	Standard for Opacity (Applying to primary lead smelters)	12/29/78	06/18/82
Articles 16.15.3 to 16.15.3.2	Standard for Sulfur (Applying to primary lead smelters)	12/29/78	06/18/82
Article 16.15.4	Monitoring Operations (Applying to primary lead smelters)	12/29/78	06/18/82
NAC 445.723	Existing copper smelters	10/26/82	03/27/84
NAC 445.815	Molybdenum processing plants	09/14/83	03/27/84
NAC 445.816(2) (a), (b), (c), (e), (f), (g), (h), and (i).	Processing Plants for Precious Metals	09/14/83	03/27/84
Section 13(15) and (19) of Senate Bill No. 275.	[State commission of environmental protection—review recommendations of hearing board and delegation].	01/28/72	05/31/72

As noted above, in our August 28, 2006 proposed rule, we proposed to disapprove the State's request to rescind certain rules and statutory provisions from the existing SIP. These rules and statutory provisions are listed in table 2 below. We believe that retention of these provisions is appropriate to satisfy certain specific requirements for SIPs under CAA section 110(a)(2) or that retention is appropriate because the State has not provided sufficient documentation to show that rescission would not interfere with continued attainment of the national ambient air quality standards (NAAQS) as required under CAA section 110(l).

TABLE 2.—SIP PROVISIONS FOR WHICH THE STATE'S RESCISSION REQUEST IS DISAPPROVED

SIP provision	Title	Submittal date	Approval date
NAC 445.436	Air contaminant	10/26/82	03/27/84
NAC 445.570	Portland cement plant	10/26/82	03/27/84
Article 1.171	Single source	12/10/76	08/21/78
NAC 445.630	Stop order	10/26/82	03/27/84
NAC 445.660	Severability	10/26/82	03/27/84
NAC 445.663	Concealment of emissions prohibited	10/26/82	03/27/84
NAC 445.665	Hazardous emissions: Order for reduction or discontinuance	10/26/82	03/27/84
NAC 445.696	Notice of violations; appearance before commission	10/26/82	03/27/84
NAC 445.697	Stop Orders	10/26/82	03/27/84
NAC 445.764	Reduction of employees' pay because of use of system prohibited	10/26/82	03/27/84
NAC 445.816(3), (4) & (5)	Processing Plants for Precious Metals	09/14/83	03/27/84

TABLE 2.—SIP PROVISIONS FOR WHICH THE STATE'S RESCISSION REQUEST IS DISAPPROVED—Continued

SIP provision	Title	Submittal date	Approval date
NRS 445.451*	State environmental commission: Creation; composition; chairman; quorum; salary, expenses of members; disqualification of members; technical support.	12/29/78	07/10/80
NRS 445.456*	Department designated as state air pollution control agency	12/29/78	07/10/80
NRS 445.473*	Department powers and duties	12/29/78	07/10/80
NRS 445.476*	Power of department representatives to enter and inspect premises	12/29/78	07/10/80
NRS 445.498*	Appeals to commission; Notice of appeal	12/29/78	07/10/80
NRS 445.499*	Appeals to commission; Hearings	12/29/78	07/10/80
NRS 445.501*	Appeals to commission: Appealable matters; commission action; rules for appeals.	12/29/78	07/10/80
NRS 445.526*	Violations: Notice and order by director; hearing; alternative procedures.	09/10/75	01/24/78
NRS 445.529*	Violations: Injunctive relief	12/29/78	07/10/80
NRS 445.576*	Confidential information: Definitions; limitations on use; penalty for unlawful disclosure or use.	09/10/75	01/24/78
NRS 445.581*	Power of department officers to inspect, search premises; search warrants.	12/29/78	07/10/80
NRS 445.596*	Private rights and remedies not affected	12/29/78	07/10/80
NRS 445.598*	Provisions for transition in administration	12/29/78	07/10/80
NRS 445.601*	Civil penalties; fines not bar to injunctive relief, other remedies; disposition of fines.	12/29/78	07/10/80

Note: Asterisk (*) indicates applicable SIP provisions for which replacement provisions are being approved (see table 3, below).

Also as noted above, in our August 28, 2006 proposed rule, we proposed to approve certain submitted statutory provisions to supersede the corresponding outdated provisions noted with an asterisk in table 2 above. These submitted statutory provisions are listed in table 3, below. In its January 12, 2006 SIP revision submittal, NDEP requests EPA to approve new statutory provisions to replace any outdated State statutory provisions for which EPA determines that the rescission request should not be approved. Thus, consistent with the State's request, we are approving 14 specific statutory provisions, submitted by NDEP in Appendix III–E of the January 12, 2006 SIP revision submittal, to replace the corresponding statutory provisions in the applicable SIP (see table 3, below). In general, we find that the current statutory provisions listed in table 3 essentially mirror the corresponding outdated provisions in the applicable SIP and thus would not relax any existing requirement.[2]

TABLE 3.—SUBMITTED PROVISIONS WHICH ARE APPROVED AS REPLACEMENTS FOR OUTDATED PROVISIONS IN THE APPLICABLE SIP

Submitted provisions	Title	Submittal date
NRS 445B.200	Creation and composition; chairman; quorum; compensation of members and employees; disqualification; technical support.	01/12/06
NRS 445B.205	Department designated as state air pollution control agency	01/12/06
NRS 445B.230	Powers and duties of department	01/12/06
NRS 445B.240	Power of representatives of department to enter and inspect premises	01/12/06
NRS 445B.340	Appeals to commission: notice of appeal	01/12/06
NRS 445B.350	Appeals to commission: hearings	01/12/06
NRS 445B.360	Appeals to commission: appealable matters; action by commission; regulations	01/12/06
NRS 445B.450	Notice and order by director; hearing; alternative procedures	01/12/06
NRS 445B.460	Injunctive relief	01/12/06
NRS 445B.570	Confidentiality and use of information obtained by department; penalty	01/12/06
NRS 445B.580	Officer of department may inspect or search premises; search warrant	01/12/06
NRS 445B.600	Private rights and remedies not affected	01/12/06
NRS 445B.610	Provisions for transition in administration	01/12/06
NRS 445B.640	Levy and disposition of administrative fines; additional remedies available; penalty	01/12/06

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from Jennifer L. Carr and Michael Elges, Division of Environmental Protection, State of Nevada Department of Conservation & Natural Resources, by letter dated September 25, 2006. We summarize the comments and provide our responses in the paragraphs that

[2] Because the current statutory provisions essentially mirror the outdated provisions, we view our approval of the current statutory provisions as a re-codification and, as such, we are not taking action to remedy pre-existing deficiencies in the applicable SIP. We note, however, that one of the provisions, NRS 445B.200 (''Creation and composition; chairman; quorum; compensation of members and employees; disqualification; technical support''), does not meet the related SIP requirements (CAA section 110(a)(2)(E)(ii) and CAA section 128) and could be the subject of some future EPA rulemaking, such as one under CAA section 110(k)(5).

follow. Note that some of the comments in the September 25, 2006 letter are directed at a different EPA proposed rule also related to the State's January 12, 2006 SIP submittal and published the same week as the August 28, 2006 proposed rule. See 71 FR 51793 (August 31, 2006). Comments on the August 31, 2006 proposed rule are addressed in a separate final action published on December 11, 2006 at 71 FR 71486.

Comment #1: The Nevada Division of Environmental Protection (NDEP) recognizes that EPA has made final approval of the rescission requests contingent upon receipt of public notice and hearing documentation from the State of Nevada and believes that it has now provided the required documentation for all of the applicable rescission requests except for 12. NDEP also comments that EPA should state that the public notice and hearing documentation submitted on February 16, 2005 was used to support the proposed rulemaking.

Response #1: With the exception of the 12 provisions listed in table 4 below for which documentation is pending, we find that the State has now provided sufficient documentation for the applicable rescission requests and thereby met the contingency placed on their proposed approval in our August 28, 2006 proposed rule.

TABLE 4.—SIP PROVISIONS FOR WHICH STATE'S REQUEST FOR RESCISSION WAS PROPOSED FOR APPROVAL BUT FOR WHICH FINAL ACTION IS PENDING RECEIPT OF DOCUMENTATION OF PUBLIC PARTICIPATION

SIP (or FIP) provision	Title	Submittal date	Approval date
NAC 445.477	Confidential information	10/26/82	03/27/84
NAC 445.554	Nuisance	10/26/82	03/27/84
NAC 445.596	Ringelmann chart	10/26/82	03/27/84
NAC 445.617	Six-minute period	10/26/82	03/27/84
NAC 445.662	Confidential Information	10/26/82	03/27/84
NAC 445.695	Schedules for compliance	10/26/82	03/27/84
NAC 445.698	Appeal of director's decision: Application forms	10/26/82	03/27/84
NAC 445.700	Violations: Manner of paying fines	10/26/82	03/27/84
NAC 445.844	Odors	10/26/82	03/27/84
NRS 445.401	Declaration of public policy	12/29/78	07/10/80
NRS 445.466	Commission regulations: Notice and hearing	12/29/78	07/10/80
NRS 445.497	Notice of regulatory action: Requirement; method; contents of notice	12/29/78	07/10/80

We also agree that an explanation of the extent of reliance of our proposed rule on the February 16, 2005 SIP submittal is warranted. On February 16, 2005, NDEP submitted a large revision to the applicable Nevada SIP. The February 16, 2005 SIP submittal includes new and amended rules and statutory provisions as well as requests for rescission of certain rules and statutory provisions in the existing SIP. The February 16, 2005 SIP submittal also contains documentation of public participation (i.e., notice and public hearing) and adoption for all of the submitted rules through the hearing on November 30, 2004 held by the State Environmental Commission. The February 16, 2005 SIP submittal also includes documentation of public participation for 16 of the requested rule rescissions.

On January 12, 2006, NDEP submitted an amended version of the February 16, 2005 SIP submittal. The January 12, 2006 SIP submittal contains updated regulatory materials including new and amended rules adopted by the State Environmental Commission on October 4, 2005 but otherwise contains the same materials as the earlier submittal with the exception of the documentation of public participation. The January 12, 2006 SIP submittal only contains documentation of public participation for rule amendments adopted by the State Environmental Commission on October 4, 2005 but did not re-submit the public participation documentation included in the earlier submittal. Therefore, the January 12, 2006 SIP submittal supersedes the earlier SIP revision submittal dated February 16, 2005 for all purposes except for the documentation of public participation for adoption dates from November 30, 2004 and earlier. The January 12, 2006 SIP submittal did not include public participation documentation for any of the requested rescissions.

Upon request by EPA for documentation of public participation for the requested rescissions, NDEP indicated where such documentation could be found in the materials submitted as part of the February 16, 2005 SIP submittal and also provided documentation for public hearings held by the State Environmental Commission on August 28–29, 1985 during which the vast majority of the rules for which the State has requested rescission were repealed. NDEP also provided an explanation for all of the other rules and statutory provisions proposed for rescission that were not already documented in the February 16, 2005 SIP submittal or the materials for the August 28–29, 1985 public hearings (except for the 12 listed in table 4). Taken collectively, the documentation provided by NDEP is sufficient to meet the related public participation requirements under CAA section 110(l) and for us to remove the contingency in our proposed rule for all of the provisions for which rescission was requested and proposed for approval (except, as noted, for the 12 listed in table 4).

Comment #2: NDEP disagrees with the statements made in EPA's TSD (for the August 28, 2006 proposed rule) regarding the rescission of Nevada Air Quality Regulation (NAQR) article 7.2.9. NDEP states that a new lime kiln located on the previous site of Sierra Chemical Company's lime kiln in Lincoln County would be subject to a new emission limit rather than the limit in NAQR article 7.2.9.

Response #2: We agree. Although we proposed approval of the State's request for rescission of NAQR article 7.2.9, our discussion and evaluation of the rescission request as set forth in the TSD presumes incorrectly that the emission limit in NAQR article 7.2.9 would apply to a new kiln at this location. The stated presumption is incorrect because a new kiln at this location would be treated as a new emission unit under NDEP's new source review rules. As such, the unit-specific limit in NAQR article 7.2.9 would not apply and has become obsolete (see letter from William Frey, Senior Deputy Attorney General, State of Nevada, dated July 11, 2006). In this notice, we are taking final action to approve the State's request for rescission of NAQR article 7.2.9.

Comment #3: NDEP acknowledges that EPA is deferring action on NAC 445.694 and intends to respond to EPA's suggestion of providing further explanation as to why the provision can be rescinded.

Response #3: We appreciate NDEP's willingness to submit additional justification for the rescission of NAC 445.694 (''Emission discharge information'') and plan to review it when it is submitted.

III. EPA Action

No comments were submitted that change our assessment of our proposed action. Therefore, as authorized in section 110(k)(3) of the Clean Air Act, and in light of documentation for public participation provided by the State of Nevada, EPA is finalizing the approval of the State's request for rescission of the rules and statutory provisions listed in table 1, above, and the disapproval of the State's request for rescission of the rules and statutory provisions listed in table 2, above. EPA is also approving the submitted statutory provisions listed in table 3, above, into the Nevada SIP as replacements for the corresponding outdated provisions listed in table 2.

EPA is not taking final action on 12 of the provisions for which the State requests rescission and for which EPA proposed approval on August 28, 2006 (as listed in table 4, above) but will do so upon receipt of public participation documentation from the State. Lastly, we will be taking final action on our proposed rescission of the Federal implementation plan at 40 CFR 52.1475 (c), (d), and (e), which is related to the former Kennecott Copper Company smelter located in White Pine County, in a separate notice.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves or disapproves certain State requests for rescission and approves certain replacement provisions as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule rescinds, retains or approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves or disapproves certain State requests for rescission and approves certain replacement provisions implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 5, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 14, 2006.

Keith Takata,

Acting Regional Administrator, Region IX.

■ Part 52, Chapter I, Title 40 of the Code of Federal Regulation is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart DD—Nevada

■ 2. Section 52.1470 is amended by adding paragraphs (b)(2), (c)(7)(i), (c)(11)(i), (c)(12)(i), (c)(14)(ix), (c)(22)(iii), (c)(25)(iii), (c)(26)(i)(B), and (c)(56)(i)(A)(8) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(b) * * *

(2) Previously approved on May 31, 1972 in paragraph (b) and now deleted without replacement: Articles 2.10.1, 2.10.1.1, 3.3.4, 4.3.4, and Section 13, Nos. 15 and 19 of Senate Bill No. 275.

* * * * *

(c) * * *
(7) * * *
(i) Previously approved on February 6, 1975 in paragraph (7) and now deleted without replacement: Article 8.1.
* * * * *
(11) * * *
(i) Previously approved on January 9, 1978 in paragraph (11) and now deleted without replacement: Articles 2.10.1.2, 2.10.2, 2.10.3, 8.1.1, 8.1.2, and 8.1.4.
* * * * *
(12) * * *
(i) Previously approved on August 21, 1978 in paragraph (12) and now deleted without replacement: Article 2.7.4.
* * * * *
(14) * * *
(ix) Previously approved on June 18, 1982 in paragraph (14)(viii) and now deleted without replacement: Article 16: Rules 16.3.1.2, 16.3.2, 16.3.2.1, 16.3.2.2, 16.15, 16.15.1, 16.15.1.1, 16.15.1.2, 16.15.2, 16.15.2.1, 16.15.2.2, 16.15.3, 16.15.3.1, 16.15.3.2, and 16.15.4.
* * * * *
(22) * * *
(iii) Previously approved on June 18, 1982 in paragraph (22)(ii) and now deleted without replacement: Articles 7.2.5, 7.2.9, and 8.3.4.
* * * * *
(25) * * *
(iii) Previously approved on March 27, 1984, in paragraph (25)(i)(A) and now deleted without replacement: Nevada Administrative Code (NAC) sections: 445.440, 445.442–445.443, 445.446, 445.451, 445.453–445.456, 445.459–445.463, 445.465–445.469, 445.474–445.476, 445.481, 445.483–445.485, 445.487, 445.489–445.491, 445.493–445.498, 445.502–445.503, 445.509–445.511, 445.514–445.515, 445.518–445.519, 445.522–445.524, 445.526–445.532, 445.534, 445.539, 445.543–445.544, 445.546, 445.547, 445.551, 445.566–445.568, 445.572–445.573, 445.576–445.580, 445.582–445.583, 445.586–445.587, 445.591, 445.593–445.595, 445.598, 445.600, 445.602–445.605, 445.608–445.611, 445.614–445.616, 445.619–445.620, 445.626, 445.629, 445.631–445.632, 445.634–445.646, 445.648, 445.652, 445.654, and 445.723.
* * * * *
(26) * * *
(i) * * *
(B) Previously approved on March 27, 1984, in paragraph (26)(i)(A) and now deleted without replacement: Nevada Administrative Code (NAC) sections 445.815 (paragraphs (1), (2)(a)(1)–(2), and (3)–(5)) and 445.816 (paragraph (2)(a)–(c) and (e)–(i)).
* * * * *
(56) * * *
(i) * * *
(A) * * *
(*8*) Title 40, Chapter 445B of Nevada Revised Statutes (NRS)(2003): Sections 445B.200, 445B.205, 445B.230, 445B.240, 445B.340, 445B.350, 445B.360, 445B.450, 445B.460, 445B.570, 445B.580, 445B.600, 445.610, and 445.640.
* * * * *

[FR Doc. E6–22408 Filed 12–29–06; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–0904; FRL–8264–8]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; PM-10 Test Methods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Maryland State Implementation Plan (SIP). The revisions incorporate by reference EPA's test methods for particulate matter with a particle size of 10 microns or less (PM-10). EPA is approving these revisions to the General Administrative Provisions of the Maryland regulations in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on March 5, 2007 without further notice, unless EPA receives adverse written comment by February 2, 2007. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2006–0904 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. E-mail: *miller.linda@epa.gov*.

C. *Mail:* EPA–R03–OAR–2006–0904, Linda Miller, Acting Chief, Air Quality Planning and Analysis Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2006–0904. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland, 21230.

FOR FURTHER INFORMATION CONTACT: Linda Miller, (215) 814–2068, or by e-mail at *miller.linda@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On June 21, 2006, the State of Maryland submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of regulatory amendment (Revision 06–06) which incorporates by reference EPA's PM-10 test methods. The Maryland regulation cites test methods used to show compliance with emission standards in COMAR 26.11.01.04. The EPA-approved test methods found in 40 CFR Appendix A were previously incorporated by reference in COMAR 26.11.01.04 and approved as part of the Maryland SIP. The method for particulate matter found in Appendix A, Test Method 5, which captures particulate matter in the front half of the test train and finer particulates and condensables collected in the second half. Method 5 typically analyzes the front half of the test train. Compliance with Prevention of Significant Deterioration permits for major sources of PM-10 requires the inclusion of condensables. The revised PM-10 test methods included in this SIP revision require the analysis of condensables for PM-10 emission limits.

The EPA-approved test methods for particulate matter which are the subject of this rulemaking are found in 40 CFR part 51, Appendix M. In addition, the revision references an EPA conditionally approved test method (CTM). The CTMs have been evaluated by the Agency and may be applicable to one or more categories of stationary sources. The EPA confidence in a method included in this category is based upon review of various technical information including, but not limited to, field and laboratory validation studies; EPA understanding of the most significant quality assurance (QA) and quality control (QC) issues; and EPA confirmation that the method addresses these QA/QC issues sufficiently to identify when the method may not be acquiring representative data. The method's QA/QC procedures are required as a condition of applicability.

II. Summary of SIP Revision

The State of Maryland has submitted revisions to the list of test methods for PM-10 for approval into the Maryland SIP. The revisions to COMAR 26.11.04.01 incorporate by reference the following test methods for PM–10 stack testing: Test Methods 201A and 202 (40 CFR part 51, Appendix M); Test Method 5 (40 CFR part 60, Appendix A) with Test method 202; Test Method 5 using front half and back half procedure; Conditional Test Method 39 may be substituted for Test Method 202. The revisions also include a provision for approval of alternative test methods for PM–10 if approved by the State and EPA.

III. Final Action

EPA is approving revisions to COMAR 26.11.01.04 to incorporate by reference EPA's PM–10 test methods. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on March 5, 2007 without further notice unless EPA receives adverse comment by February 2, 2007. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission To Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a

''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 5, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to approve incorporation by reference of PM–10 stack test methods into the Maryland SIP may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter, Reporting and recordkeeping requirements.

Dated: December 18, 2006.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart V— Maryland

■ 2. In § 52.1070, the table in paragraph (c) is amended by revising the entry for COMAR 26.11.01.04 to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE MARYLAND SIP

Code of Maryland administrative regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.1100
26.11.01	General Administrative Provisions			
*	*	*	*	*
26.11.01.04	Testing and Monitoring	6/19/06	1/3/07 [Insert page number where the document begins].	Paragraph .04c(2) is added.
*	*	*	*	*

* * * * *

[FR Doc. E6–22414 Filed 12–29–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2004–TN–0004, EPA–R04–OAR–2005–TN–0009, EPA–R04–OAR–2006–0532, 200607/17(a); FRL–8265–6]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions To the Knox County Portion of the Tennessee State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve multiple revisions to the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), on March 16, 2000, July 23, 2002, December 10, 2004, and January 31, 2006. The revisions pertain to the Knox County portion of the Tennessee SIP and include changes to Knox County Air Quality Regulations (KCAQR) Section 16.0—''Open Burning,'' Section 25.0—''Permits,'' and Section 46.0—''Regulation of Volatile Organic Compounds.'' These revisions are part of Knox County's strategy to attain and maintain the national ambient air quality standards (NAAQS). Today's action is being taken pursuant to section 110 of the Clean Air Act (CAA).

DATES: This direct final rule is effective March 5, 2007 without further notice, unless EPA receives adverse comment by February 2, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Nos. EPA–R04–OAR–2004–TN–0004, EPA–R04–OAR–2005–TN–0009, and EPA–R04–OAR–2006–0532 by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. E-mail: *louis.egide@epa.gov* or *hou.james@epa.gov.*

3. Fax: (404) 562–9019.

4. Mail: ''EPA–R04–OAR–2004–TN–0004,'' ''EPA–R04–OAR–2005–TN–0009,'' or ''EPA–R04–OAR–2006–0532,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

5. Hand Delivery or Courier: Egide Louis or James Hou, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's official hours of business. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2004–TN–0004, EPA–R04–OAR–2005–TN–0009, or EPA–R04–OAR–2006–0532. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which

means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Egide Louis or James Hou, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Dr. Louis can be reached by telephone at (404) 562–9240 or via electronic mail at *louis.egide@epa.gov*. The telephone number for Mr. Hou is (404) 562–8965. He can also be reached via electronic mail at *hou.james@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Analysis of State Submittals

On March 16, 2000, July 23, 2002, December 10, 2004, and January 31, 2006, the State of Tennessee, through TDEC, submitted revisions to the Tennessee SIP. The revisions pertain to the Knox County portion of the Tennessee SIP and include changes to KCAQR Section 16.0—''Open Burning,'' Section 25.0—''Permits,'' and Section 46.0—''Regulation of Volatile Organic Compounds.'' These rule changes became effective at the county level on March 8, 2000, June 25, 2002, December 8, 2004, and December 14, 2005, respectively. These revisions were initially submitted by Knox County Air Quality Management Division for review to TDEC, which found the changes to be at least as stringent as the corresponding State requirements. TDEC then prepared the forma SIP revision submittals for EPA review. The changes included as part of the instant revisions are part of Knox County's strategy to attain and maintain the NAAQS and are approvable into the Tennessee SIP pursuant to section 110 of the CAA. The changes included in each of the four SIP submittals will be discussed below, organized by subject matter. In some cases, one rule, such as the open burning rule, may be affected by more than one of the SIP submittals. As a result, the changes discussed below are organized by rule and not SIP submittal.

I. KCAQR Section 16.0—''Open Burning''

All four of the SIP submittals included changes to KCAQR Section 16.0, ''Open Burning.'' Each change is discussed below beginning with the March 16, 2000, submittal.

The March 16, 2000, SIP submittal included changes to KCAQR Section 16.4.B, which allows open fires to be set for the training and instruction of public or private fire-fighting personnel. Section 16.4.B was changed to include conditions under which the use of open burning for fire-fighting training must be conducted. These conditions include requirements that the substances to be burned must be free of asbestos and asphalt shingles; the burning is for training purposes only; and the burning will not cause a traffic hazard. As a point of clarification, Section 16.4.B, which was numbered 16.3.B at the time of the March 16, 2000, submittal, subsequently became Section 16.4.B as a result of a renumbering of Section 16.0 which is discussed below as part of one of the later SIP submittals.

The July 23, 2002, SIP submittal included changes to KCAQR Section 16.3—''Definitions,'' and Section 16.0—''Open Burning,'' including a renumbering/reorganization of Section 16.0. The changes to the definitions for Open Burning includes definitions for the terms ''air curtain destructor,'' ''air pollution emergency episode,'' ''natural disaster,'' ''open burning,'' ''person,'' ''registered sanitary landfill,'' and ''wood waste.'' As a result of the renumbering/reorganization of Section 16.0, that provision now contains the following parts: Section 16.1—''Open Burning Prohibited,'' Section 16.2—''Definitions,'' Section 16.3—''Exceptions to Prohibition—Without Permit,'' Section 16.4—''Exceptions to Prohibition—With Permit,'' Section 16.5—''Open Burning Conditions—With Permit,'' and Section 16.6, which includes general prohibitions. Section 16.6, which lists materials not exempted by the Open Burning Rule, is one of the new sections. Changes were also made to Section 16.4.C (old Section 16.3.C). They consisted of adding specific requirements under which open burning is allowed when an air curtain destructor is used. The requirements include necessary certifications, timing, substances to be burned, and other restrictions.

The December 10, 2004, SIP submittal included changes to KCAQR Section 16.5.B prohibiting open burning on ''air pollution action days.'' Specifically, ''air pollution action days'' are defined as days on which the appropriate agency within Knox County has determined that air pollution levels may potentially exceed a NAAQS. The December 10th submittal also included a new provision, Section 16.7, which provided that the use of air curtain destructors would be prohibited in the County after January 1, 2005.

The January 31, 2006, SIP submittal included changes to KCAQR Section 16.4.C and 16.4.D. On November 1, 2006, Knox County notified EPA Region 4 of its decision to withdraw Section 16.4.D. from the January 31, 2006, SIP revision. As a result, EPA reviewed the January 31, 2006, submittal as though it did not contain any changes regarding Section 16.4.D. The changes to Section 16.4.C involved the deletion of substance contained in that section, which regarded the use of air curtain destructors, and reserving it for future use. This revision is consistent with the prohibition on air curtain destructors included as part of the December 10, 2004, SIP submittal (this is discussed briefly above).

The March 16, 2000, SIP submittal also included minor changes to KCAQR Section 13.0—''Definitions'' and Section 25.0—''Permits.'' The proposed changes

to Section 13.0 are not being addressed today and are not being affected by today's direct final action. They will be addressed in a subsequent action by EPA which will be published in the **Federal Register**. With regard to KCAQR Section 25.0—''Permits,'' the changes include the addition of a new section, Section 25.3.J (pertaining to operating permits), which stipulates that any violation of an operating permit is considered a violation of the permit at issue, as well as, a violation of the Knox County air regulations. This change was made to ensure consistency between the Knox County air permits program and the corresponding State of Tennessee program.

The December 10, 2004, SIP submittal discussed above with regard to the Open Burning Rule changes, also contained a proposal to adopt and incorporate by reference the State of Tennessee's rules on Stage I Vapor Recovery. These rules appear in the Tennessee Administrative Code Chapter 1200–3–18–.24.B—''Gasoline Dispensing Facilities, Stage I and Stage II Vapor Recovery.'' This provision now exists in Knox County air regulations under Section 46.0—''Regulation of Organic Volatile Compounds,'' as KCAQR Section 46.22—''Gasoline Dispensing Facilities, Stage I Vapor Recovery.'' Knox County's changes were made to ensure consistency with the State of Tennessee's Stage I and Stage II vapor recovery programs, which are required in newly designated nonattainment areas of the State.

All of the KCAQR changes described above, which span over four SIP submittals, include changes to KCAQR that are part of Knox County's strategy to attain and maintain air quality that is consistent with the NAAQS. According to the TDEC, the changes are at least as stringent as the Tennessee SIP, and the changes also appear to be at least as stringent as the current Knox County portion of the SIP. As a result, the above described changes are approvable pursuant to section 110 of the Clean Air Act.

II. Final Action

EPA is approving revisions to the Knox County portion of the Tennessee SIP, submitted by the State of Tennessee on March 16, 2000, July 23, 2002, December 10, 2004, and January 31, 2006, pursuant to section 110 of the Clean Air Act. The revisions include changes to KCAQR Section 16.0—''Open Burning,'' Section 25.0—''Permits,'' and Section 46.0—''Regulation of Volatile Organic Compounds.'' Although the December 10, 2004, submittal also included changes to Section 13.0—''Definitions,'' EPA is not taking action on that revision today. In addition, EPA is taking no action on changes included in the January 31, 2006, SIP revision regarding Section 16.4.D. of the open burning rule, because they were subsequently withdrawn by Knox County.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revisions should adverse comments be filed. This rule will be effective March 5, 2007 without further notice unless the Agency receives adverse comments by February 2, 2007.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on March 5, 2007 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. As a result, this action does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 5, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 20, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart RR—Tennessee

■ 2. Section 52.2220(c) is amended by revising entries in Table 3 of the Knox County portion of the Tennessee State Implementation Plan, for ''Section 16.0,'' ''Section 25.0,'' and ''Section 46.0'' to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

TABLE 3.—EPA APPROVED KNOX COUNTY, REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
* *	*	*	* *	*
Section 16.0	Open Burning	12/14/05	01/03/07 [Insert citation of publication].	
* *	*	*	* *	*
Section 25.0	Permits	03/08/00	01/03/07 [Insert citation of publication].	
* *	*	*	* *	*
Section 46.0	Regulation of Volatile Organic Compounds.	10/8/04	01/03/07 [Insert citation of publication].	
* *	*	*	* *	*

* * * * *

[FR Doc. E6–22475 Filed 12–29–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2005–TN–0009, EPA–R04–OAR–2006–0471, EPA–R04–OAR–2006–0532, 2006014(a); FRL–8265–8]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions to the Knox County Portion of the Tennessee State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), on December 21, 1999, March 15, 2000, and January 12, 2001. The revisions pertain to the Knox County portion of the Tennessee SIP and include changes to the Knox County Air Quality Regulations (KCAQR) Section 13.0—''Definitions'' and Section 22.0—''Regulation of Fugitive Dust and Materials.'' These revisions are part of Knox County's strategy to attain and maintain the national ambient air quality standards (NAAQS), and are considered by the TDEC to be at least as stringent as the State's requirements. This action is being taken pursuant to section 110 of the Clean Air Act (CAA).

DATES: This direct final rule is effective March 5, 2007 without further notice, unless EPA receives adverse comment by February 2, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Nos. EPA–R04–OAR–2005–TN–0009, EPA–R04–OAR–2006–0471, and EPA–R04–OAR–2006–0532, by one of the following methods:

1. *http://www.regulations.gov:* Follow the online instructions for submitting comments.

2. *E-mail: louis.egide@epa.gov.*

3. *Fax:* (404) 562–9019.

4. *Mail:* ''EPA–R04–OAR–2005–TN–0009,'' ''EPA–R04–OAR–2006–0471,'' or ''EPA–R04–OAR–2006–0532,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Dr. Egide Louis, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2005–

TN–0009; EPA–R04–OAR–2006–0471, or EPA–R04–OAR–2006–0532. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Egide Louis, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9240. Dr. Louis can also be reached via electronic mail at *louis.egide@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Analysis of State Submittals

On December 21, 1999, March 16, 2000, and January 12, 2001, the State of Tennessee, through TDEC, submitted proposed revisions to the Tennessee SIP. The revisions pertain to the Knox County portion of the Tennessee SIP and include changes to KCAQR Section 13.0—''Definitions'' and Section 22.0—''Regulation of Fugitive Dust and Materials.'' These revisions were initially submitted for review to TDEC, which found them to be at least as stringent as the State's requirements. TDEC then prepared the SIP submittal for EPA review. The rule changes described in each submittal became State effective on December 7, 1999, March 8, 2000, and January 10, 2001, respectively. The rule changes are part of Knox County's strategy to attain and maintain the NAAQS, and are approvable into the Tennessee SIP pursuant to section 110 of the CAA.

The December 21, 1999, and March 16, 2000, SIP submittals included changes to KCAQR Section 13.0—''Definitions.'' The December 21, 1999, submittal included a change to KCAQR Section 13.1 to clarify existing definitions and add a more complete list of definitions. EPA reviewed these general definitions with regard to consistency with the current Tennessee SIP and federal law, generally. These definitions are substantially the same as those in the current Tennessee SIP, and as a result, they are at least as stringent as the Tennessee definitions already included in the SIP. Furthermore, the definitions are at least as stringent as general federal definitions. Section 13.0 is a general definitions section only; different programs described in the Knox County rules, such as the prevention of significant deterioration program, may include more specific definitions applicable to that program. The changes being approved today are summarized below:

1. Knox County added definitions for the following terms: calendar quarter, excess emissions, fuel burning equipment, garbage, national emission standards for hazardous air pollutants, point source, reasonably available control technology, shutdown, and startup.
2. Knox County moved definitions for the terms PM_{10}, PM_{10} emissions, and total suspended solids from the ''Abbreviations'' section to the ''Definitions'' section, within Section 13.0.
3. Knox County changed the definition for the term existing source to adopt the language in the Tennessee Administrative Code Chapter 1200–3–2-.01—''Definitions.''
4. Knox County changed the definition for the term non-process emissions by omitting the reference to Section 13.40. Section 13.40 was deleted as a result of the reformatting and change in the numbering system of Section 13.0, which is discussed below.
5. Knox County reformatted Section 13.0 to include a definitions part and an abbreviations part. Knox County also changed the numbering system of Section 13.0 to accommodate both the definitions and abbreviations.

The March 16, 2000, SIP submittal included additional changes to KCAQR Section 13.0. Specifically, Knox County revised the definition of ''PM_{10} Emissions'' to exclude uncombined water. This change was made in response to EPA comments described in a letter to the Knox County Department of Air Quality Management on October 13, 1999. In this letter, which is included in the Docket for this action, EPA commented that for Knox County's definition to be consistent with the definition contained in 40 CFR 51.100, the PM_{10} emissions definition should not include ''uncombined water.''

The March 16, 2000, SIP submittal also included changes to KCAQR Section 16.0—''Open Burning'' and Section 25.0—''Permits.'' EPA is not discussing those changes at this time. EPA will address those changes in a separate action described in a separate **Federal Register** notice.

The January 12, 2001, SIP submittal included changes to KCAQR Section 22.0—''Regulation of Fugitive Dust and Materials.'' Specifically, the changes added the ''paving of roadways'' as a new activity for which reasonable precautions have to be taken to prevent particulate matter from becoming airborne. The list of activities for which reasonable precautions must be taken to control particulate matter now includes both the paving of roadways and the maintenance of roadways (which was moved from Section 22.1.E to 22.1.H).

II. Final Action

EPA is taking direct final action to approve the above-described revisions to the Tennessee SIP, to incorporate changes made by Knox County to KCAQR Sections 13.0—''Definitions,'' and 22.0—''Regulation of Fugitive Dust and Materials.'' EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be submitted. This rule will be effective March 5, 2007 without further notice unless the Agency receives adverse comments by February 2, 2007.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on March 5, 2007 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of the rules discussed herein, and if that provision may be severed from the remainder of the rules, we may adopt as final those provisions of the rules that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves state law as meeting a Federal standard. As a result, it does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 5, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 20, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart RR—Tennessee

■ 2. Section 52.2220(c) is amended by revising entries in Table 3 of the Knox County portion of the Tennessee State Implementation Plan, for ''Section 16.0'' and ''Section 22.0,'' to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

TABLE 3.—EPA APPROVED KNOX COUNTY, REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
* *	*	*	* *	*
13.0	Definitions	03/08/00	01/03/07 [Insert citation of publication].	
* *	*	*	* *	*
22.0	Regulation of Fugitive Dust and Materials.	1/10/01	01/03/07 [Insert citation of publication].	
* *	*	*	* *	*

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[FR Doc. E6–22482 Filed 12–29–06; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2004–0238; FRL–8264–1]

RIN 2060-AM16

National Emission Standards for Hazardous Air Pollutants for Source Categories From Oil and Natural Gas Production Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants to regulate hazardous air pollutant emissions from oil and natural gas production facilities that are area sources. The final national emission standards for hazardous air pollutants for major sources was promulgated on June 17, 1999, but final action with respect to area sources was deferred. Oil and natural gas production is identified in the Urban Air Toxics Strategy as an area source category for regulation under section 112(c)(3) of the Clean Air Act because of benzene emissions from triethylene glycol dehydration units located at such facilities. This final rule also amends a general provision in the regulation to allow the use of an ASTM standard as an alternative test method to EPA Method 18 in the National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities.

DATES: This final rule is effective on January 3, 2007. The incorporation by reference of certain publications listed in these rules is approved by the Director of the Federal Register as of January 3, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2004–0238. All documents in the docket are listed either on the www.regulations.gov Web site or in the legacy docket, A–94–04. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air and Radiation Docket, EPA West, Room B–102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742. **Note:** The EPA Docket Center suffered damage due to flooding during the last week of June 2006. The Docket Center is continuing to operate. However, during the cleanup, there will be temporary changes to Docket Center telephone numbers, addresses, and hours of operation for people who wish to make hand deliveries or visit the Public Reading Room to view documents. Consult EPA's **Federal Register** notice at 71 FR 38147 (July 5, 2006) or the EPA Web site at *http://www.epa.gov/epahome/dockets.htm* for current information on docket operations, locations, and telephone numbers. The Docket Center's mailing address for U.S. mail and the procedure for submitting comments to www.regulations.gov are not affected by the flooding and will remain the same.

FOR FURTHER INFORMATION CONTACT: Greg Nizich, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (E143–01), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–3078; fax number: (919) 541–0246; e-mail address: *nizich.greg@epa.gov*.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Entities potentially affected by this final rule include, but are not limited to, the following:

Category	NAICS Code*	Examples of regulated entities
Industry	211111, 211112	Condensate tank batteries, glycol dehydration units, and natural gas processing plants.

* North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility would be regulated by this action, you should examine the applicability criteria in 40 CFR part 63, subpart HH, National Emissions Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this final rule is also

available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of this final rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg/*. The TTN provides information and technology exchange in various areas of air pollution control.

Judicial Review. Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of this final rule is available by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by March 5, 2007. Only those objections to this final rule that were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of this final rule may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Section 307(d)(7)(B) of the CAA further provides a mechanism for us to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Organization of this Document. The information presented in this preamble is organized as follows:

I. Background Information

A. What is the statutory authority for this final rule?

Sections 112(c)(3) and 112(k)(3)(B) of the CAA instruct us to identify not less than 30 hazardous air pollutants (HAP) which, as a result of emissions from area sources,[1] present the greatest threat to public health in the largest number of urban areas, and to list sufficient source categories or subcategories to ensure that 90 percent of the emissions of the listed HAP (area source HAP) are subject to regulation. CAA Section 112(c)(3) requires us to regulate these listed area source categories under CAA section 112(d). Section 112(d)(5) of the CAA provides us with the discretion to set standards for area sources according to generally available control technologies (GACT) or management practices in lieu of maximum achievable control technologies (MACT). Unlike MACT, there is no prescription in CAA section 112(d)(5) that standards for existing sources must, at a minimum, be set at the level of emission reduction achieved by the best performing 12 percent of existing sources, or that standards for new sources be set at the level of emission reduction achieved in practice by the best controlled similar source. The legislative history suggests that standards under CAA section 112(d)(5) should ''[reflect] application of generally available control technology—that is, methods, practices, and techniques which are commercially available and appropriate for application by the sources in the category considering economic impacts and the technical capabilities of the firms to operate and maintain the emissions control systems.'' SEN. REP. NO. 101–228, at 171 (1989). Thus, by contrast to MACT, CAA section 112(d)(5) allows us to consider various factors in determining the appropriate standard for a given area source category.

[1] Under section 112(a) of the CAA, an area source is a stationary source that is not a major source. A major source, as defined under section 112(a) of the CAA, is a stationary source or a group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAP.

B. What criteria are used in the development of area source standards?

We are issuing standards for this area source category under CAA section 112(d)(5), in lieu of a MACT standard. There are factors relevant to this area source category that warrant our consideration, and we can properly assess those factors under section 112(d)(5) of the CAA. For example, the locations of oil and natural gas production sources are dictated by the locations of the relevant natural resources rather than a need to serve a particular population center. In addition, these sources do not typically require on-site operators and are usually not manned by large staff, if manned at all. Given the unique nature of these sources, many of these sources are located in remote areas. We believe that a CAA section 112(d)(5) standard is appropriate because it would allow us to adequately address these and other relevant factors, including costs, in promulgating these national emission standards for hazardous air pollutants (NESHAP).

C. How was this final rule developed?

We initially proposed NESHAP for the Oil and Natural Gas Production source category on February 6, 1998 (63 FR 6288) that addressed both major and area source oil and natural gas production facilities. CAA Section

112(c)(3) authorizes us to list for regulation an area source category ''which the Administrator finds present a threat of adverse effects to human health or the environment * * * warranting regulation.'' In the 1998 proposed NESHAP, we proposed to regulate this area source category pursuant to CAA section 112(c)(3) due to the risks from exposure to benzene emissions from triethylene glycol (TEG) dehydration units at these area sources. Public comments were solicited at the time of the proposal. We received 29 comment letters on the proposed area source standards. On June 17, 1999, we promulgated the NESHAP for major sources of oil and natural gas production (64 FR 32610) but did not finalize either the 1998 proposed listing of this area source category for regulation or the proposed area source standards. Instead, on July 19, 1999, we published the Urban Air Toxics Strategy (Strategy) (64 FR 38706, July 19, 1999). The Strategy included benzene as one of the 30 listed area source HAP under CAA section 112(k)(3)(B)(i). The Strategy also listed oil and natural gas production for regulation under CAA section 112(k)(3)(B)(ii) because TEG dehydration units at oil and natural gas production facilities contributed approximately 47 percent of the national urban benzene emissions from area sources. On July 8, 2005 (70 FR 39443), we published a supplemental proposal to the 1998 proposed area source standards. The 60-day comment period ended on September 6, 2005, and we received 18 comment letters on the supplemental proposal. Today's final rule reflects our consideration of all of the comments received on both the 1998 and 2005 proposed standards for area sources of oil and natural gas production.

II. Summary of This Final Rule

A. What source categories are affected by this final rule?

This final rule affects area source oil and natural gas production facilities. An oil and natural gas production facility processes, upgrades, or stores (1) hydrocarbon liquids (with the exception of those facilities that exclusively handle black oil) to the point of custody transfer and (2) natural gas from the well up to and including the natural gas processing plant.

B. What is the affected source?

In this final rule, the affected source is defined as each TEG dehydration unit located at an area source oil and natural gas production facility. Other types of dehydration units or other emission points (*e.g.*, equipment leaks) at area source oil and natural gas production facilities are not a part of the affected source.

C. What pollutants are emitted and controlled?

The primary HAP associated with oil and natural gas production facilities include benzene, toluene, ethylbenzene, and mixed xylenes and n-hexane. Only benzene is listed under CAA section 112(k)(3)(B)(i) as one of the 30 area source HAP. Benzene is classified as a known human carcinogen based on convincing human evidence (such as observed increases in the incidence of leukemia in exposed workers), as well as supporting evidence from animal studies. In addition, short-term inhalation of high benzene levels may cause nervous system effects such as drowsiness, dizziness, headaches, and unconsciousness in humans. At even higher concentrations of benzene, exposure may cause death, while lower concentrations may irritate the skin, eyes, and upper respiratory tract. Long-term inhalation exposure to benzene may cause various disorders of the blood and toxicity to the immune system. Reproductive disorders in women, as well as developmental effects in animals, have also been reported for benzene exposure.

Benzene emissions from TEG dehydration units at oil and natural gas production facilities contributed approximately 47 percent of the nationwide urban area source benzene emissions. Accordingly, this final rule regulates benzene emissions from TEG dehydration units at area source oil and natural gas production facilities.

D. Does this final rule apply to me?

You are subject to emissions reduction requirements in this final rule if you own or operate a TEG dehydration unit with an actual annual average natural gas flow rate equal to or greater than 85 thousand standard cubic meters per day (thousand m^3/day) (3 million standard cubic feet per day (MMSCF/D)), and with benzene emissions equal to or greater than 0.90 Megagrams per year (Mg/yr) (1.0 ton per year (tpy)).

E. What are the emission limitations and work practice standards?

We created three subcategories of sources in this final rule. We created a subcategory of TEG dehydration units with either an annual average natural gas flowrate less than 85 thousand m^3/day (3 MMSCF/D) or benzene emissions less than 0.90 Mg/yr (1.0 tpy). As explained in the supplemental proposed rule, we determined that GACT is no control for these sources. We did not receive any comments on this determination.

As for those TEG dehydration units with an annual average natural gas flow rate equal to or greater than 85 thousand m^3/day (3 MMSCF/D) and benzene emissions equal to or greater than 0.90 Mg/yr (1.0 tpy), we subcategorized these units based on their locations with regard to areas of higher population densities. In evaluating population density, we started with the U.S. Census Bureau terms of ''urbanized area'' and ''urban cluster.'' Upon evaluating the characteristics of this area source category, we define areas of higher population densities to be urbanized areas (UA),[2] urban clusters (UC)[3] that contain 10,000 people or more,[4] and the area located two miles[5] or less from each UA boundary. For ease of reference, this final rule refers to these areas as ''UA plus offset and UC.'' As mentioned above, UA and UC are terms used by the United States Census Bureau to identify densely settled areas. Among other Census Bureau criteria, an UA has a population of at least 50,000 people, and an UC has a population of at least 2,500, but less than 50,000 people.

For those area source TEG dehydration units with natural gas throughput and benzene emission rates above the cutoff levels described above that are located within the UA plus offset and UC boundary, we are requiring, pursuant to CAA section 112(d)(5), that each such unit be connected, through a closed vent system, to one or more emission control devices. The control devices must: (1) Reduce HAP emissions by 95 percent or more (generally by a condenser with a

[2] *Urbanized area (UA)* refers to Census 2000 Urbanized Area, which is defined in the *Urban Area Criteria for Census* 2000, 67 FR 11663, 11667 (March 15, 2002). Essentially, an UA consists of densely settled territory with a population of at least 50,000 people.

[3] *Urban cluster (UC)* refers to Census 2000 Urban Cluster, which is defined in the *Urban Area Criteria for Census* 2000, 67 FR 11667. Essentially, an UC consists of densely settled territory with at least 2,500 people, but fewer than 50,000 people.

[4] This final rule does not cover all UC areas, but only those UC areas that contain 10,000 people or more, which are used to construct Census 2000 core-based statistical areas (65 FR 82233).

[5] We determined the 2-mile offset distance by reviewing maps of different UA areas and measuring the distance across the largest pockets or holes within the UA footprint. Since our evaluations showed that the largest distance was just under 4 miles across, we decided to use one half of that distance, i.e., 2 miles, as the offset distance. This would ensure that any sources located within a pocket or hole would be controlled as part of the UA source-group. Since we did not find the presence of holes in UC's, no offset is provided.

flash tank); or (2) reduce HAP emissions to an outlet concentration of 20 parts per million by volume (ppmv) or less (for combustion devices); or (3) reduce benzene emissions to a level less than 0.90 Mg/yr (1.0 tpy). As an alternative to complying with these control requirements, pollution prevention measures such as process modifications or combinations of process modifications and one or more control devices that reduce the amount of HAP generated, are allowed provided that they achieve the same required emission reductions.

For those area source TEG dehydration units with natural gas throughput and benzene emission rates above the cutoff levels described above that are located outside of UA plus offset and UC boundaries, we are requiring, pursuant to CAA section 112(d)(5), that each unit reduce emissions by lowering the glycol circulation rate to be less than or equal to an optimum rate. The optimum rate is determined by the following equation:

$$L_{OPT} = 1.15 * 3.0 \frac{\text{gal TEG}}{\text{lb } H_2O} * \left(\frac{F * (I - O)}{24 \text{ hr/day}} \right)$$

Where:

L_{OPT} = Optimal circulation rate, gal/hr.
F = Gas flowrate (MMSCF/D).
I = Inlet water content (lb/MMSCF), and
O = Outlet water content (lb/MMSCF).

The constant 3.0 gal TEG/lb H_2O is the industry accepted rule of thumb for a TEG-to-water ratio. The constant 1.15 is an adjustment factor included for a margin of safety.

We decided to subcategorize in the manner described above for several reasons. We received a number of comments on both the 1998 and 2005 proposals that this source category contains many sources that are located in remote areas. Our understanding of this area source category is consistent with the comment on the remoteness of the locations of many of these sources. We recognize that the oil and natural gas production source category is unique compared to many other area source categories in that the location of these sources is dictated by the location of the relevant natural resources rather than a need to serve a particular population center. In addition, sources in this category do not typically require on-site operators and are usually not manned by large staff, if manned at all. As previously mentioned, we believe that the standards need to be tailored to appropriately address these unique circumstances.

In conducting our analysis, we compared the impacts of applying the add-on control requirement described above to TEG dehydration units nationwide to the impacts of only applying the requirement to units located in areas of high population densities (i.e., within the UA plus offset and UC boundary).[6] Applying the add-on control to the estimated 2,222 TEG dehydration units nationwide would result in approximately 13,400 tpy of HAP (4,020 tpy of benzene) emission reduction. We estimate that these 2,222 TEG dehydration units are located in States with a combined population of 92 million people.[7] The annual cost for this option was estimated to be $39 million. We then evaluated the impacts of applying the add-on control requirement to only those TEG dehydration units located within UA plus offset and UC boundaries. We estimated 50 TEG dehydration units in this area with a combined population of 80 million people. This scenario would result in a 300 tpy HAP (90 tpy of benzene) emission reduction and an annual cost of compliance of $883 thousand. Thus, extending the add-on control requirement to sources outside the UA plus offset and UC boundaries would result in an additional annual cost exceeding $38 million in an area with a combined population of 12 million people. This analysis showed that the overall cost of controlling units outside UA plus offset and UC boundaries was much higher for a lower population.

Since the areas located outside UA plus offset and UC boundaries are sparsely populated compared to those inside UA plus offset and UC boundaries, we do not believe the additional cost associated with extending the add-on control requirement to sources in this area is justified. Under this final rule, the add-on control requirement applies only to sources located within the UA plus offset and UC boundaries. Section 112(d)(5) of the CAA authorizes us to set standards for area sources that provide for the use of generally available management practices by sources to reduce HAP emissions. Pursuant to CAA section 112(d)(5), we have prescribed a management practice for sources located outside the UA plus offset and UC boundaries. We have determined that adjusting the TEG circulation rate is an appropriate management practice for several reasons. First, by lowering the TEG circulation rate, the amount of glycol that comes in contact with the natural gas is reduced, thereby lowering the amount of HAP (e.g., benzene) that is absorbed by the glycol and subsequently emitted through the reboiler vent when the glycol is regenerated. We estimate that the HAP emissions reduction is approximately 7,600 tpy (2,400 tpy of benzene) for the approximately 2,172 sources located outside UA plus offset and UC boundaries. Second, reducing the TEG circulation rate has the added benefit of reducing natural gas losses. Natural gas is also absorbed by the TEG, and subsequently emitted through the reboiler vent. The amount of natural gas vented is directly proportional to the TEG circulation rate. Lowering the TEG circulation rate has a direct impact on the amount of natural gas lost. Third, optimizing the TEG circulation rate can be achieved without sacrificing the performance of the TEG dehydration unit. Fourth, this process variable does not require the presence of an on-site operator to maintain and, thus, would be an achievable option for unmanned sources. Finally, the TEG circulation rate can be optimized for minimal capital cost (e.g., a new pump may be required) and could result in an annual cost savings due to the reduction of the natural gas losses. Therefore, this final rule requires each TEG dehydration unit at area source oil and natural gas production facilities located outside of UA plus offset and UC boundaries to reduce emissions by optimizing the TEG circulation rate.

F. What are the testing and initial compliance requirements?

To demonstrate that the actual annual average natural gas flowrate of your TEG dehydration unit is less than 85 thousand m^3/day (3 MMSCF/D), this final rule specifies that you must determine the natural gas flow rate using either a flow measurement device or another method approved by the Administrator. To demonstrate that your TEG dehydration unit emits less than 0.90 Mg/yr (1.0 tpy) of benzene, this final rule specifies that you must determine its emissions using either GRI–GLYCalc™, Version 3.0 or higher, or direct measurement.

For TEG dehydration units that have an actual annual average natural gas flowrate and benzene emission rate at or above the cut-off levels mentioned above and are located within the UA

[6] Because we have determined that GACT is no control for units below the natural gas throughput and benzene emission threshold, we only considered the impacts of sources above the thresholds.

[7] We are using an approach by which we are evaluating the affected TEG dehydration units relative to the populations contained in the top 13 natural gas producing States (Texas, New Mexico, Oklahoma, Wyoming, Louisiana, Colorado, Alaska, Kansas, California, Utah, Michigan, Alabama, and Mississippi). This approach is consistent with that used in the July 2005 proposal (70 FR 39446).

plus offset and UC boundaries, the source must submit Notification of Compliance Status Reports, inspect/test the closed-vent system and control device(s), and establish monitoring parameter values. If the unit is above the cut-offs and located outside the UA plus offset and UC boundaries, the source only has to submit an Initial Notification which must include a certified statement of future compliance.

We are finalizing the change proposed in the July 8, 2005 notice to allow ASTM D6420–99 (2004) as an alternative where EPA Method 18 is specified. The General Provisions of 40 CFR part 63 will be amended to incorporate the approved method by reference for 40 CFR part 63, subpart HH. See section VI.J. for further discussion.

G. What are the continuous compliance requirements?

Area sources within UA plus offset and UC boundaries are required to submit periodic reports on an annual basis, instead of semiannually, as is required for major sources. Continuous compliance requirements include submitting periodic reports, conducting annual inspections of closed-vent systems, repairing leaks and defects, conducting the required monitoring, and maintaining the required records. As described in the 1998 proposal and the 2005 proposal, these monitoring, recordkeeping, and reporting requirements are the same as those required for major sources except for the frequency of submittal for periodic reports. Sources outside the UA plus offset and UC boundaries must maintain a record of the circulation rate determination.

III. Significant Changes Since Proposal

A. Compliance Dates

The compliance date provisions for existing sources in this final rule differ from the two proposed rules in two respects. First, because we have added a management practice requirement to this final rule, we included a 2-year compliance deadline for existing sources subject to this requirement. The management practice requirement would require, at most, that a source install a new glycol pump to optimize the TEG circulation rate. We believe that 2 years is a sufficient length of time in which to install and operate the glycol pump at the optimum circulation rate. We considered making the compliance deadline 1 year, however we decided that given the estimated 2,172 sources required to implement this management practice, a 2-year compliance period was more appropriate.

Second, we use the date of the 1998 proposed rule for defining existing and new sources in ''Urban-1'' counties only. In the 2005 supplemental proposal, we used the date of the 1998 proposed rule to define new and existing sources in both Urban-1 and ''Urban-2'' counties, because we had proposed to regulate sources in these counties in the 1998 proposed rule.[8] Since then, we concluded that defining existing and new sources in Urban-2 counties based on the date of the 1998 proposed rule would be inappropriate because the 1998 proposed rule contained an inaccurate definition for Urban-2 and, therefore, did not provide adequate notice to sources in Urban-2 counties. Accordingly, this final rule uses the date of the 1998 proposal for defining existing and new sources in Urban-1 counties only. For sources in areas other than Urban-1 counties, this final rule determines existing and new sources based on the date of the 2005 supplemental proposal.

Table 1 of this preamble presents compliance dates for existing and new sources for this final rule.

For an affected source located in a county we classified as * * *	and is located * * *	where the source was constructed/reconstruct-ed * * *	then the source is * * *	and the compliance date for that source would be * * *
(a) Urban-1 based on 2000 census data,	within any UA plus offset and UC boundary,	before February 6, 1998,	Existing	January 4, 2010.
(b) Urban-1 based on 2000 census data,	Not within any UA plus offset and UC boundary,	before February 6, 1998,	Existing	January 5, 2009.
(c) Urban-1 based on 2000 census data,	either within or outside any UA plus offset and UC boundary,	on or after February 6, 1998,	New	January 3, 2007 or startup, whichever is later.
(d) Not Urban-1 based on 2000 census data,	within any UA plus offset and UC boundary,	before July 8, 2005,	Existing	January 4, 2010.
(e) Not Urban-1 based on 2000 census data,	Not within any UA plus offset and UC boundary,	before July 8, 2005,	Existing	January 5, 2009.
(f) Not Urban-1 based on 2000 census data,	Either within or outside any UA plus offset and UC boundary,	on or after July 8, 2005,	New	January 3, 2007 or startup, whichever is later.

B. Applicability Requirements

Whereas the proposed rules proposed applying the add-on control requirement either nationally or only to TEG dehydration units at sources located in ''urban'' counties, this final rule applies this requirement to: Units at area sources located within a UA plus offset and UC boundary, which is described in section II.E above. Units at area sources not located within the UA plus offset and UC boundaries must implement the prescribed management practices (i.e., adjust TEG circulation rate) for operation of the TEG dehydration unit. Guidance is available on the Internet at *http://www.epa.gov/ttn/atw/oilgas/oilgaspg.html* to assist in determining your location relative to a UA plus offset and UC boundary, or you can access the Bureau of Census Web site at *http://factfinder.census.gov* to generate a map based on the location of your TEG dehydration unit and calculate the location relative to the nearest UA plus offset and UC boundaries.

[8] Both the 1998 and 2005 proposed rules provided definitions for ''Urban-1'' and ''Urban-2.'' However, we did not accurately define ''Urban-2'' in the 1998 proposed rule. The definition for ''Urban-2'' was corrected in the 2005 supplemental proposed rule.

C. Startup, Shutdown, and Malfunction Requirements

This final rule follows the requirements of the General Provisions (40 CFR part 63, subpart A) regarding startup, shutdown, and malfunction (SSM) events. Because this final rule only requires area sources within UA plus offset and UC boundaries to have add-on control, only sources within the UA plus offset and UC boundaries are subject to the General Provisions regarding SSM.

IV. Responses to Significant Comments

Our responses to all of the significant public comments on both proposals are presented in the Response to Comments Document which is available in Docket No. EPA–HQ–OAR–2004–0238.

A. What Geographic Applicability Criteria is Being Used in this final rule?

Comment: We proposed two options for the geographic applicability criteria: (1) all TEG dehydration units would be subject to area source standards (hereinafter referred to as ''Option 1''); and (2) area source standards would apply to TEG dehydration units located in Urban-1 and Urban-2 counties (hereinafter referred to as ''Option 2''). We received comments objecting to Option 1 for primarily two reasons: (1) EPA does not have the authority to regulate rural sources under the CAA; and (2) regulation of rural or remote sources is not warranted due to low exposure risks.

The commenters stated that nationwide applicability is contrary to the plain language of the CAA, specifically section 112(k). According to the commenters, CAA section 112(k) is designed to address those smaller sources of HAP that create unacceptable exposures in concentrated urban areas; remote, small, or sparsely populated rural areas, where many dehydrators are located, are therefore not within the scope of CAA section 112(k)(1). Several commenters stated that there is no clear indication that emissions from remote sources provide a meaningful contribution to ambient air toxic levels in urban areas; therefore, regulating rural sources would not have the effect intended by the CAA.

We also received comments objecting to Option 1 asserting that exposure risks from facilities located in rural or remote areas are low or nonexistent. One commenter stressed that the foundation for the area source program was based on regulating area sources in a manner that would result in a public health benefit. The commenter stated that regulating dehydration units in rural areas, which are sparsely populated, would not yield the same public health benefits that were ''contemplated'' by the statute.

Response: We believe that the CAA provides the Agency with the authority to regulate area sources nationwide. CAA section 112(k)(1) states that ''It is the purpose of this subsection to achieve a substantial reduction in emissions of hazardous air pollutants from area sources and an equivalent reduction in the public health risks associated with such sources including a reduction of not less than 75 per centum in the incidence of cancer attributable to emissions from such sources.'' Consistent with this expressed purpose of CAA section 112(k) to reduce both emissions and risks, CAA section 112(k)(3)(i) requires that we list not less than 30 HAP that, as a result of emissions from area sources, present the greatest threat to public health in the largest number of urban areas. CAA sections 112(c)(3) and (k)(3)(ii) require that we list area source categories that represent not less than 90 percent of the area source emissions of each of the listed HAP. CAA section 112(c) requires that we issue standards for listed categories under CAA section 112(d). These relevant statutory provisions authorize us to regulate listed area source categories and not just sources located in urban areas.

In both the UATS and our July 8, 2005 supplemental proposal, we identified the reasons supporting a national rule (e.g., benzene's toxicity and carcinogenicity, a level playing field, the 75 percent cancer incidence reduction goal) (64 FR 38724 and 70 FR 39446). Furthermore, by requiring management practices rather than control requirements on sources outside the UA plus offset and UC boundaries, we believe that we have appropriately addressed commenters' concern with respect to remote sources being subject to unnecessary or costly requirements.

B. What urban definition is being used in this final rule?

Comment: Several commenters opposed EPA's definition of ''urban areas.'' According to the commenters, by defining urban areas as county-wide areas, EPA has expanded urban areas to include large expanses of rural territories. One commenter stated that a comparison of land area to population on a county basis shows that the target population for protection is very thinly distributed. Four commenters referred to maps noting that the maps show vast areas of the United States that would be classified as urban areas based on the proposed definition, but have very low population. The commenters specifically referred to the State of Wyoming, in which half of the State is classified as ''urban'' using EPA's proposed definition. One commenter also pointed out that in Utah, six of the 12 counties designated as urban using EPA's definition have a population density of less than ten persons per square mile.

Other commenters stated that some counties with a total population of less than 5,000, and an average population density of less than two people per square mile, would be classified as urban under the Urban-2 designation. In order to illustrate the broad geographical applicability that includes remote locations, the commenters stated that, based on the Urban-2 definition, urban designations would be applied to:

- 14 of 23 counties in Wyoming;
- 20 of 33 counties in New Mexico;
- 10 or 17 counties in Nevada; and
- 17 of 56 counties in Montana.

One commenter stated that EPA's proposed definition of urban areas would be unnecessarily costly and burdensome on sites located in rural or remote areas, but classified as urban. One commenter acknowledged that there has been, and will continue to be, instances of energy production and population encroachment. However, according to the commenter, most of the known conventional or unconventional gas supply basins are likely to remain rural for the foreseeable future.

Response: The statute does not define urban, thus, leaving us the discretion to define the term. We proposed and took comments on our definition of the term urban as part of our 1999 UATS. The definition was the basis for the listing of area source categories pursuant to section 112(c)(3) and (k)(3)(B)(ii) of the CAA. We are currently under court-ordered deadlines to complete issuing standards for all listed area source categories. Changing the definition of urban would mean recreating an area source category list, which may differ significantly from the current list and, thus, greatly hinders our effort to complete our obligation by the court-ordered deadlines. Therefore, we believe that revisiting the definition of urban is inappropriate at this time. However, we have tailored this rule to address the unique circumstances associated with this source category, as described above. Moreover, in response to comments regarding the nature of remote sources, we modified this final rule and are only requiring the add-on control requirement for sources in areas of higher population densities, which we have identified as areas within the UA plus offset and UC boundaries. This

rule imposes the less costly management practice requirements on sources outside the UA plus offset and UC boundaries.

C. What are the requirements for remote/unmanned sources?

Comment: Commenters said if EPA imposes controls on TEG dehydrators outside of Urban-1 areas, it should adopt a separate (lesser) control standard for those remote area sources for the following reasons:

- It is not justified based on health effects.
- Practical considerations prevent operators from achieving the 95-percent control efficiency on remote, unmanned TEG dehydrators.

Commenters said that in order to meet the 95-percent control efficiency or the outlet concentration, an operator generally has to install a system with a forced draft fan for the condenser and a flare or vapor recovery system. Many remote sources do not have an electric power supply, which precludes using a forced draft fan. Routing the vapors to the firebox or fire-tube is not practical in all situations because the high water vapor content can extinguish the fire. While flares and vapor recovery systems address this problem, they require frequent monitoring, which is a problem at unmanned sites that are only visited infrequently. The lack of electric power supply would make certain automated monitoring systems impossible.

Commenters said EPA should adopt a separate GACT standard for facilities outside of ''Urban-1'' areas and ''urbanized areas.'' The 95-percent control efficiency standard could still apply in Urban-1 areas and urbanized areas, but it would not otherwise apply to area source TEG dehydrators. The commenters recommended that EPA set GACT for facilities that are not located in Urban-1 or urbanized areas as a reduction of benzene to a level of less than 1 tpy, and remove the 95-percent control efficiency requirement. One commenter added that GACT could also be considered as the installation of a flash tank/condenser or incinerator process.

Response: We agree with the commenters that it is reasonable to require a higher level of emission reductions for TEG dehydration units located in more densely populated areas. We also recognize that the oil and natural gas source category is unique because there are many area sources that are located in remote or rural areas. For these reasons and the reasons discussed above, we have subcategorized to differentiate between those sources above the cutoff levels identified above that are located inside UA plus offset and UC boundaries and those located outside such boundaries. We require installation of control equipment for TEG dehydration units located inside UA plus offset and UC boundaries and management practices (i.e., optimized glycol circulation rate) for units located outside UA plus offset and UC boundaries. We believe that this approach addresses the commenters' concerns regarding the control of remote or rural facilities.

V. Impacts of This Final Rule

The environmental and cost impacts for this final rule are presented in Table 2 of this preamble:

	Existing	New
Total Number of Impacted Facilities	2,222	*141
Facilities Required to Install Add-On Controls		
Number of Facilities	50	3
Emission Reductions (Mg/yr):		
HAP	300	17
VOC	530	30
Benzene	90	5
Secondary Emissions Increases (Mg/yr):		
SO_2	<1	<1
NO_X	<1	<1
CO	<1	<1
Cost Impacts:		
Total Capital Investment (1,000 $/yr)	850	35
Total Annual Cost (1,000 $/yr)	880	50
Facilities Required to Implement Management Practices		
Number of Facilities	2,172	138
Emission Reductions (Mg/yr):		
HAP	6,900	440
VOC	14,020	890
Benzene	2,200	140
Cost Impacts:		
Total Capital Investment (1,000 $/yr)	1,700	105
Total Annual Cost without considering gas savings (1,000 $/yr)	14,200	905
Total Annual gas savings (1,000 $/yr)	(12,600)	(800)
Total Annual Cost considering gas savings (1,000 $/yr)	1,600	105

* New source estimates are estimated by determining the average number of new sources per year.

A. What Are the Air Impacts?

For existing area source TEG dehydration units in the oil and natural gas production source category, we estimate that nationwide baseline area sources HAP emissions are 45,100 Mg/yr (49,600 tpy) and 13,500 Mg/yr of benzene (14,800 tpy). The final standards require that TEG dehydration units with a natural gas throughput greater than 85 thousand m^3/day (3 MMSCF/D) and benzene emissions greater than 0.90 Mg/yr (1.0 tpy), located within the UA plus offset and UC boundaries achieve a 95-percent emission reduction or reduce benzene emissions to less than 0.90 Mg/yr (1.0 tpy) either through pollution prevention process changes or by installing a control device (e.g., condenser), while sources located outside the UA plus

offset and UC boundaries optimize their glycol circulation rate. We estimate that this final rule will result in a HAP emission reduction of 7,200 Mg/yr (7,900 tpy) and 2,200 Mg/yr of benzene (2,400 tpy).

To estimate the impacts of this final rule on new sources, we assumed that new area source facilities would, in the absence of the standards, have baseline emissions equivalent to existing sources. We estimate that a total of 7,200 new area source TEG dehydration units will be constructed within the next 5 years, or 2,400 per year. Of these 7,200 new area source TEG dehydration units, we estimate that a total of 423 (141 per year) will have an actual annual average natural gas flowrate greater than or equal to 85 thousand m^3/day (3 MMSCF/D). Using these assumptions, we estimate the nationwide emission reduction resulting from new area source TEG dehydration units complying with this final rule would be approximately 450 Mg/yr (500 tpy) of HAP and 140 Mg/yr (150 tpy) of benzene from the 141 new area sources that would become subject each year. We assume that, of the 141 new area sources, 3 would be located within the UA plus offset and UC boundaries and 138 would be located outside the boundaries.

Secondary environmental impacts are considered to be any air, water, or solid waste impacts, positive or negative, associated with the implementation of the final standards. These impacts are exclusive of the direct organic HAP air emissions reductions discussed in the previous section.

The capture and control of benzene that is presently emitted from area source TEG dehydration units will result in a decrease in volatile organic compound (VOC) emissions as well. The estimated total VOC emissions reductions are 14,550 Mg/yr (16,000 tpy) from existing sources.

Other secondary environmental impacts are those associated with the operation of certain air emission control devices (i.e., flares). The adverse secondary air impacts would be minimal in comparison to the primary HAP reduction benefits from implementing the final control requirements for area sources. We estimate that the national annual increase of secondary air pollutant emissions resulting from the use of a flare to comply with the final standards is less than 1 Mg/yr for sulfur oxides, 1 Mg/yr for carbon monoxide, and 1 Mg/yr for nitrogen oxides.

B. What are the Cost Impacts?

Since several compliance options are available to owners/operators of affected sources subject to the add-on control requirement, we are not sure what control method will be employed. Sources can control emissions by routing emissions to a condenser, a flare, a process heater, or back to the process or by implementing pollution prevention process changes. For the cost estimates developed for condenser systems, we looked at systems with and without the use of a gas condensate glycol separator (GCG separator) or flash tank in TEG dehydration system design. We estimate that approximately 50 sources are located within the UA plus offset and UC boundaries. For the new source cost impacts, we assumed that new area source TEG dehydration units will be constructed with a flash tank.

Affected sources located outside of UA plus offset and UC boundaries are required to operate the TEG dehydration unit at the optimum glycol circulation rate. For estimating annual costs for these sources, it was assumed that in order to meet the optimum glycol circulation rate, owners or operators would be required to purchase and install a new pump. Because reducing the glycol circulation rate to an optimum level reduces gas losses, a recovery credit is also associated with this requirement. Although we believe a minority of sources will have to install a new pump to meet the management practice requirements, costs were estimated by assuming that 50 percent of the 2,172 sources would have to install a new pump while the other 50 percent could lower the circulation rate sufficiently by making adjustments on the existing pump.

The estimated annual costs shown in Table 2 of this preamble include the capital cost; operating and maintenance costs; the cost of monitoring, inspection, recordkeeping, and reporting; and any associated product recovery credits.

C. What are the Economic Impacts?

For the 1998 proposal, we prepared an economic impact analysis evaluating the impacts of the rule on affected producers, consumers, and society. The economic analysis focused on the regulatory effects on the United States natural gas market that is modeled as a national, perfectly competitive market for a homogenous commodity.

The results of the analysis showed that the imposition of regulatory costs on the natural gas market would result in negligible changes in natural gas prices, output, employment, foreign trade, and business closures. The price and output changes as a result of the 1998 proposed regulation were estimated to be less than 0.01 percent, significantly less than observed market trends. We continue to believe that the previous analysis is valid for today's action and that the result of the 1998 economic impact analysis resulted in a very low percent increase in price and output changes. Therefore, we believe that imposition of regulatory costs associated with this final rule will result in negligible changes in natural gas prices, output, employment, foreign trade, and business closures.

D. What are the Non-Air Environmental and Energy Impacts?

The water impacts associated with the installation of a condenser system for the TEG dehydration unit reboiler vent would be minimal. This is because the condensed water collected with the hydrocarbon condensate can be directed back into the system for reprocessing with the hydrocarbon condensate or, if separated, combined with produced water for disposal by reinjection.

Similarly, the water impacts associated with installation of a vapor control system would be minimal. This is because the water vapor collected along with the hydrocarbon vapors in the vapor collection and redirect system can be directed back into the system for reprocessing with the hydrocarbon condensate or, if separated, combined with the produced water for disposal for reinjection.

The best management practice of optimizing the glycol circulation rate would result in lower quantities of water being absorbed into the glycol and sent to the glycol dehydration unit.

Therefore, we expect the adverse water impacts from the implementation of the emissions reduction options for the final area source standards to be minimal.

We do not anticipate any adverse solid waste impacts from the implementation of the area source standards.

Energy impacts are those energy requirements associated with the operation of emission control devices. There would be no national energy demand increase from the operation of any of the control options analyzed under the final oil and natural gas production standards for area sources. The final area source standards encourage the use of emission controls that recover hydrocarbon products, such as methane and condensate that can be used on-site as fuel or reprocessed, within the production process, for sale. There are no energy requirements associated with the management

practices within this final rule. Thus, the final standards have a positive impact associated with the recovery of non-renewable energy resources.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action.'' This action meets criteria 3(f)(4) of Executive Order 12866, ''raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.'' Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Order 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* The information collection requirements are not enforceable until OMB approves them.

The information to be collected for the area source provisions of the Oil and Natural Gas Production NESHAP are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions in 40 CFR part 63, subpart A, which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA policies set forth in 40 CFR part 2, subpart B.

This final rule requires maintenance inspections of the control devices but does not require any notifications or reports beyond those required by the applicable General Provisions in subpart A to 40 CFR part 63. The recordkeeping requirements require only the specific information needed to determine compliance.

The Oil and Natural Gas Production NESHAP requires that facility owners or operators retain records for a period of 5 years, which exceeds the 3-year retention period contained in the guidelines in 5 CFR 1320.6. The 5-year retention period is consistent with the provisions of the General Provisions of 40 CFR part 63, and with the 5-year records retention requirement in the operating permit program under title V of the CAA. All subsequent guidelines have been followed and do not violate any of the Paperwork Reduction Act guidelines contained in 5 CFR 1320.6.

The annual projected burden for this information collection to owners and operators of affected sources subject to the emissions reduction requirements in this final rule (averaged over the first 3 years after the effective date of the promulgated rule) is estimated to be 28,000 labor-hours per year, with a total annual cost of $1.6 million per year. These estimates include a one-time performance test and report (with repeat tests where needed), preparation of a startup, shutdown, and malfunction plan, immediate reports for any event when the procedures in the plan were not followed, annual compliance reports, maintenance inspections, notifications, and recordkeeping.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. When this Information Collection Request is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in this final rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business with 500 employees or less (as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. This final rule requires emission reductions (either by installing a control device or by implementing management practices) at facilities that operate a TEG dehydration unit with an average annual natural gas throughput at or above 85 thousand m3/day (3 MMSCF/D) and benzene emissions at or above 0.90 Mg/yr (1.0 tpy). This final rule provides that GACT is no control for sources with natural gas flow below 85 thousand m3/day (3 MMSCF/D) or with benzene emissions below 0.90 Mg/yr (1.0 tpy) of benzene. Accordingly, we estimated that 2,222 of the 38,000 sources would be subject to the emission reduction requirements.

We performed an economic impact analysis to estimate the changes in product price and production quantities due to this final rule. Because sales and revenues data were not readily available for the affected industries, we began our analysis by examining the annual cost of meeting the emissions reduction requirements. Since the maximum cost incurred by a source subject to this final rule occurs when installing add-on controls, we are basing our analysis on that compliance approach. The annual per unit cost of compliance with this final rule would be $17,657. The throughput cost for natural gas has experienced significant volatility within the past several years, making a point estimate difficult to identify. The wellhead natural gas price, from the Department of Energy, averaged $4.00 per thousand cubic feet from 2001 to 2003. In order to be conservative for this analysis, we assumed a natural gas price of $88.29 per thousand cubic meters ($2.50 per thousand cubic feet).

One frequently used approach for determining whether or not a rule would have a significant impact on a small entity is to compare annualized control cost with annualized revenue from sales. Typically, costs less than 1 percent of revenues are not considered as imposing a significant impact. In the present case, the annual per-unit cost of compliance is estimated to be $17,657. Using the aforementioned 1 percent criterion for significant impact, annual revenues would have to be less than $1,765,700 in order for significant impact to occur. At $88.29 per thousand cubic meters ($2.50 per thousand cubic feet) of throughput, that revenue translates to 19,999 thousand cubic meters per year (706,280 thousand cubic feet per year) throughput, or 54.8 thousand m3/day (1.94 MMSCF/D). Since the cutoff for installation of emissions controls for this final rule is 85 thousand m3/day (3 MMSCF/D), we determined the annual cost of control for those entities affected by this final rule is not sufficient to generate a significant impact on a substantial number of small entities.

Although this final rule will not have a significant economic impact on a substantial number of small entities, we nonetheless have tried to reduce the impact of this rule on small entities. Where periodic reporting is required, we are requiring annual reporting in this rule, as opposed to semi-annual reporting that is required in the major source NESHAP for this category. In addition, our subcategorization, as described above, should reduce the number of small entities impacted and the extent of the impact.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with this final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of this final rule for any 1 year has been estimated to be less than $2.5 million. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the rule does not significantly or uniquely affect small governments because it does not contain any requirements applicable to such governments or impose obligations upon them. Therefore, today's rule is not subject to section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order 13175.

This final rule does not significantly or uniquely affect the communities of Indian tribal governments. We do not know of any area source TEG dehydration units owned or operated by Indian tribal governments. However, if there are any, the effect of this final rule on communities of tribal governments would not be unique or disproportionate to the effect on other communities. Thus, Executive Order 13175 does not apply to this final rule.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations

That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects.

I. National Technology Transfer and Advancement Act

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS. However, we would like to note that the draft standard ASTM Z7420Z, which was cited in the final Oil and Natural Gas Production NESHAP (64 FR 32609–32664, June 17, 1999) as a potentially practical method to use in lieu of EPA Method 18, has now been finalized by ASTM and approved by EPA for use in rules where Method 18 is cited. This new standard is ASTM D6420–99 (2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, and it is appropriate for inclusion in this final rule in addition to EPA Method 18, codified at 40 CFR part 60, appendix A, for measurement of total organic carbon, total HAP, total volatile HAP, and benzene.

Similar to EPA's performance-based Method 18, ASTM D6420–99 (2004) is also a performance-based method for measurement of total gaseous organic compounds. However, ASTM D6420–99 (2004) was written to support the specific use of highly portable and automated gas chromatographs/mass spectrometers (GC/MS). While offering advantages over the traditional Method 18, the ASTM method does allow some less stringent criteria for accepting GC/MS results than required by Method 18. Therefore, ASTM D6420–99 (2004) is a suitable alternative to Method 18 only where: (1) The target compound(s) are those listed in Section 1.1 of ASTM D6420–99 (2004), and (2) the target concentration is between 150 parts per billion by volume and 100 ppmv. For target compound(s) not listed in Section 1.1 of ASTM D6420–99 (2004), but potentially detected by mass spectrometry, this final rule specifies that the additional system continuing calibration check after each run, as detailed in Section 10.5.3 of the ASTM method, must be followed, met, documented, and submitted with the data report even if there is no moisture condenser used or the compound is not considered water soluble. For target compound(s) not listed in Section 1.1 of ASTM D6420–99 (2004), and not amenable to detection by mass spectrometry, ASTM D6420–99 (2004) does not apply.

As a result, EPA will allow ASTM D6420–99 (2004) for use with this final rule. The EPA will also allow Method 18 as an option in addition to ASTM D6420–99 (2004). This will allow the continued use of GC configurations other than GC/MS. Under 40 CFR 63.7(f) and 40 CFR 63.8(f), subpart A of the General Provisions, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any of the EPA testing methods, performance specifications, or procedures.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective January 3, 2007.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: December 21, 2006.

Stephen L. Johnson,

Administrator.

■ For the reasons set forth in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart A—[Amended]

■ 2. Section 63.14 is amended by revising paragraph (b)(28) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(b) * * *

(28) ASTM D6420–99 (Reapproved 2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectometry, IBR approved for §§ 63.772(a)(1)(ii), 63.2354(b)(3)(i), 63.2354(b)(3)(ii), 63.2354(b)(3)(ii)(A), and 63.2351(b)(3)(ii)(B).

* * * * *

Subpart HH—[Amended]

■ 3. Section 63.760 is amended as follows:

■ a. By revising paragraph (a)(1) introductory text;

■ b. By revising paragraph (b);

■ c. By revising paragraph (e)(2);

■ d. By revising paragraph (f) introductory text;

■ e. By revising the first sentences in paragraphs (f)(1) and (f)(2);

■ f. By adding paragraphs (f)(3) through (6);

■ g. By revising paragraph (g) introductory text; and

■ h. By adding a sentence at the end of paragraph (h).

§ 63.760 Applicability and designation of affected source.

(a) * * *

(1) Facilities that are major or area sources of hazardous air pollutants (HAP) as defined in § 63.761. Emissions for major source determination purposes can be estimated using the maximum natural gas or hydrocarbon liquid throughput, as appropriate, calculated in paragraphs (a)(1)(i) through (iii) of this section. As an alternative to calculating the maximum natural gas or hydrocarbon liquid throughput, the owner or operator of a new or existing source may use the facility's design maximum natural gas or hydrocarbon

liquid throughput to estimate the maximum potential emissions. Other means to determine the facility's major source status are allowed, provided the information is documented and recorded to the Administrator's satisfaction. A facility that is determined to be an area source, but subsequently increases its emissions or its potential to emit above the major source levels (without first obtaining and complying with other limitations that keep its potential to emit HAP below major source levels), and becomes a major source, must comply thereafter with all provisions of this subpart applicable to a major source starting on the applicable compliance date specified in paragraph (f) of this section. Nothing in this paragraph is intended to preclude a source from limiting its potential to emit through other appropriate mechanisms that may be available through the permitting authority.

* * * * *

(b) The affected sources for major sources are listed in paragraph (b)(1) of this section and for area sources in paragraph (b)(2) of this section.

(1) For major sources, the affected source shall comprise each emission point located at a facility that meets the criteria specified in paragraph (a) of this section and listed in paragraphs (b)(1)(i) through (b)(1)(iv) of this section.

(i) Each glycol dehydration unit;

(ii) Each storage vessel with the potential for flash emissions;

(iii) The group of all ancillary equipment, except compressors, intended to operate in volatile hazardous air pollutant service (as defined in § 63.761), which are located at natural gas processing plants; and

(iv) Compressors intended to operate in volatile hazardous air pollutant service (as defined in § 63.761), which are located at natural gas processing plants.

(2) For area sources, the affected source includes each triethylene glycol (TEG) dehydration unit located at a facility that meets the criteria specified in paragraph (a) of this section.

* * * * *

(e) * * *

(2) A major source facility, prior to the point of custody transfer, with a facility-wide actual annual average natural gas throughput less than 18.4 thousand standard cubic meters per day and a facility-wide actual annual average hydrocarbon liquid throughput less than 39,700 liters per day.

(f) The owner or operator of an affected major source shall achieve compliance with the provisions of this subpart by the dates specified in paragraphs (f)(1) and (f)(2) of this section. The owner or operator of an affected area source shall achieve compliance with the provisions of this subpart by the dates specified in paragraphs (f)(3) through (f)(6) of this section.

(1) The owner or operator of an affected major source, the construction or reconstruction of which commenced before February 6, 1998, shall achieve compliance with the applicable provisions of this subpart no later than June 17, 2002, except as provided for in § 63.6(i). * * *

(2) The owner or operator of an affected major source, the construction or reconstruction of which commences on or after February 6, 1998, shall achieve compliance with the applicable provisions of this subpart immediately upon initial startup or June 17, 1999, whichever date is later.* * *

(3) The owner or operator of an affected area source, located in an Urban-1 county, as defined in § 63.761, the construction or reconstruction of which commences before February 6, 1998, shall achieve compliance with the provisions of this subpart no later than the dates specified in paragraphs (f)(3)(i) or (ii) of this section, except as provided for in § 63.6(i).

(i) If the affected area source is located within any UA plus offset and UC boundary, as defined in § 63.761, the compliance date is January 4, 2010.

(ii) If the affected area source is not located within any UA plus offset and UC boundary, as defined in § 63.761, the compliance date is January 5, 2009.

(4) The owner or operator of an affected area source, located in an Urban-1 county, as defined in § 63.761, the construction or reconstruction of which commences on or after February 6, 1998, shall achieve compliance with the provisions of this subpart immediately upon initial startup or January 3, 2007, whichever date is later.

(5) The owner or operator of an affected area source that is not located in an Urban-1 county, as defined in § 63.761, the construction or reconstruction of which commences before July 8, 2005, shall achieve compliance with the provisions of this subpart no later than the dates specified in paragraphs (f)(5)(i) or (ii) of this section, except as provided for in § 3.6(i).

(i) If the affected area source is located within any UA plus offset and UC boundary, as defined in § 63.761, the compliance date is January 4, 2010.

(ii) If the affected area source is not located within any UA plus offset and UC boundary, as defined in § 63.761, the compliance date is January 5, 2009.

(6) The owner or operator of an affected area source that is not located in an Urban-1 county, as defined in § 63.761, the construction or reconstruction of which commences on or after July 8, 2005, shall achieve compliance with the provisions of this subpart immediately upon initial startup or January 3, 2007, whichever date is later.

* * * * *

(g) The following provides owners or operators of an affected source at a major source with information on overlap of this subpart with other regulations for equipment leaks. The owner or operator of an affected source at a major source shall document that they are complying with other regulations by keeping the records specified in § 63.774(b)(9).

* * * * *

(h) * * * Unless otherwise required by law, the owner or operator of an area source subject to the provisions of this subpart is exempt from the permitting requirements established by 40 CFR part 70 or 40 CFR part 71.

■ 4. Section 63.761 is amended by adding, in alphabetical order, the definitions of ''UA plus offset and UC,'' ''Urban-1 County,'' ''urbanized area,'' and ''urban cluster'' to read as follows:

§ 63.761 Definitions.

* * * * *

UA plus offset and UC is defined as the area occupied by each urbanized area, each urban cluster that contains at least 10,000 people, and the area located two miles or less from each urbanized area boundary.

Urban-1 County is defined as a county that contains a part of a Metropolitan Statistical Area with a population greater than 250,000, based on the Office of Management and Budget's *Standards for defining Metropolitan and Micropolitan Statistical Areas* (December 27, 2000), and Census 2000 Data released by the U.S. Census Bureau.

Urbanized area refers to Census 2000 Urbanized Area, which is defined in the *Urban Area Criteria for Census 2000* (March 15, 2002). Essentially, an urbanized area consists of densely settled territory with a population of at least 50,000 people.

Urban cluster refers to a Census 2000 Urban Cluster, which is defined in the *Urban Area Criteria for Census 2000* (March 15, 2002). Essentially, an urban cluster consists of densely settled

territory with at least 2,500 people but fewer than 50,000 people.

* * * * *

■ 5. Section 63.762 is amended by revising paragraph (e) to read as follows:

§ 63.762 Startups, shutdowns, and malfunctions.

* * * * *

(e) Owners or operators are not required to prepare a startup, shutdown, and malfunction plan for any facility where all of the affected sources meet the exemption criteria specified in § 63.764(e), or for any facility that is not located within a UA plus offset and UC boundary.

■ 6. Section 63.764 is amended by adding paragraph (d) and by revising paragraph (e)(1) introductory text to read as follows:

§ 63.764 General standards.

* * * * *

(d) Except as specified in paragraph (e)(1) of this section, the owner or operator of an affected source located at an existing or new area source of HAP emissions shall comply with the applicable standards specified in paragraph (d) of this section.

(1) Each owner or operator of an area source located within an UA plus offset and UC boundary (as defined in § 63.761) shall comply with the provisions specified in paragraphs (d)(1)(i) through (iii) of this section.

(i) The control requirements for glycol dehydration unit process vents specified in § 63.765;

(ii) The monitoring requirements specified in § 63.773; and

(iii) The recordkeeping and reporting requirements specified in §§ 63.774 and 63.775.

(2) Each owner or operator of an area source not located in a UA plus offset and UC boundary (as defined in § 63.761) shall comply with paragraphs (d)(2)(i) through (iii) of this section.

(i) Determine the optimum glycol circulation rate using the following equation:

$$L_{OPT} = 1.15 * 3.0 \frac{\text{gal TEG}}{\text{lb } H_2O} * \left(\frac{F * (I - O)}{24 \text{ hr/day}} \right)$$

Where:

L_{OPT} = Optimal circulation rate, gal/hr.
F = Gas flowrate (MMSCF/D).
I = Inlet water content (lb/MMSCF).
O = Outlet water content (lb/MMSCF).
3.0 = The industry accepted rule of thumb for a TEG-to water ratio (gal TEG/lb H_2O).
1.15 = Adjustment factor included for a margin of safety.

(ii) Operate the TEG dehydration unit such that the actual glycol circulation rate does not exceed the optimum glycol circulation rate determined in accordance with paragraph (d)(2)(i) of this section. If the TEG dehydration unit is unable to meet the sales gas specification for moisture content using the glycol circulation rate determined in accordance with paragraph (d)(2)(i), the owner or operator must calculate an alternate circulation rate using GRI–GLYCalc™, Version 3.0 or higher. The owner or operator must document why the TEG dehydration unit must be operated using the alternate circulation rate and submit this documentation with the initial notification in accordance with § 63.775(c)(7).

(iii) Maintain a record of the determination specified in paragraph (d)(2)(ii) in accordance with the requirements in § 63.774(f) and submit the Initial Notification in accordance with the requirements in § 63.775(c)(7). If operating conditions change and a modification to the optimum glycol circulation rate is required, the owner or operator shall prepare a new determination in accordance with paragraph (d)(2)(i) or (ii) of this section and submit the information specified under § 63.775(c)(7)(ii) through (v).

(e) * * *

(1) The owner or operator is exempt from the requirements of paragraph (c)(1) and (d) of this section if the criteria listed in paragraph (e)(1)(i) or (ii) of this section are met, except that the records of the determination of these criteria must be maintained as required in § 63.774(d)(1).

* * * * *

■ 7. Section 63.765 is amended by revising paragraph (a) to read as follows:

§ 63.765 Glycol dehydration unit process vent standards.

(a) This section applies to each glycol dehydration unit subject to this subpart with an actual annual average natural gas flowrate equal to or greater than 85 thousand standard cubic meters per day and with actual average benzene glycol dehydration unit process vent emissions equal to or greater than 0.90 megagrams per year, that must be controlled for HAP emissions as specified in either paragraph (c)(1)(i) or paragraph (d)(1)(i) of § 63.764.

* * * * *

■ 8. Section 63.772 is amended as follows:

■ a. By revising paragraph (a)(1);

■ b. By revising the first sentence of paragraph (b)(2)(ii);

■ c. By revising paragraph (e)(3)(iii) introductory text;

■ d. By revising paragraph (e)(3)(iii)(B)(*2*); and

■ e. By revising the first and second sentences of paragraph (e)(3)(iv) introductory text.

§ 63.772 Test methods, compliance procedures, and compliance demonstrations.

(a) * * *

(1) For a piece of ancillary equipment and compressors to be considered not in VHAP service, it must be determined that the percent VHAP content can be reasonably expected never to exceed 10.0 percent by weight. For the purposes of determining the percent VHAP content of the process fluid that is contained in or contacts a piece of ancillary equipment or compressor, you shall use the method in either paragraph (a)(1)(i) or paragraph (a)(1)(ii) of this section.

(i) Method 18 of 40 CFR part 60, appendix A, or

(ii) ASTM D6420–99 (2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (incorporated by reference—see § 63.14), provided that the provisions of paragraphs (a)(1)(ii)(A) through (D) of this section are followed:

(A) The target compound(s) are those listed in section 1.1 of ASTM D6420–99 (2004);

(B) The target concentration is between 150 parts per billion by volume and 100 parts per million by volume;

(C) For target compound(s) not listed in Table 1.1 of ASTM D6420–99 (2004), but potentially detected by mass spectrometry, the additional system continuing calibration check after each run, as detailed in section 10.5.3 of ASTM D6420–99 (2004), is conducted, met, documented, and submitted with the data report, even if there is no moisture condenser used or the compound is not considered water soluble; and

(D) For target compound(s) not listed in Table 1.1 of ASTM D6420–99 (2004), and not amenable to detection by mass spectrometry, ASTM D6420–99 (2004) may not be used.

* * * * *

(b) * * *

(2) * * * (ii) The owner or operator shall determine an average mass rate of benzene emissions in kilograms per hour through direct measurement using the methods in § 63.772(a)(1)(i) or (ii), or an alternative method according to § 63.7(f).* * *

* * * * *

(e) * * *

(3) * * *

(iii) To determine compliance with the control device percent reduction performance requirement in

§ 63.771(d)(1)(i)(A), (d)(1)(ii), and (e)(3)(ii), the owner or operator shall use one of the following methods: Method 18, 40 CFR part 60, appendix A; Method 25A, 40 CFR part 60, appendix A; ASTM D6420–99 (2004), as specified in § 63.772(a)(1)(ii); or any other method or data that have been validated according to the applicable procedures in Method 301, 40 CFR part 63, appendix A. The following procedures shall be used to calculate percent reduction efficiency:

* * * * *

(B) * * *

(*2*) When the TOC mass rate is calculated, all organic compounds (minus methane and ethane) measured by Method 18, 40 CFR part 60, appendix A, or Method 25A, 40 CFR part 60, appendix A, or ASTM D6420–99 (2004) as specified in § 63.772(a)(1)(ii), shall be summed using the equations in paragraph (e)(3)(iii)(B)(*1*) of this section.

* * * * *

(iv) To determine compliance with the enclosed combustion device total HAP concentration limit specified in § 63.771(d)(1)(i)(B), the owner or operator shall use one of the following methods to measure either TOC (minus methane and ethane) or total HAP: Method 18, 40 CFR part 60, appendix A; Method 25A, 40 CFR part 60, appendix A; ASTM D6420–99 (2004), as specified in § 63.772(a)(1)(ii), or any other method or data that have been validated according to Method 301 of appendix A of this part.* * *

* * * * *

■ 9. Section 63.774 is amended as follows:

■ a. By revising paragraph (b) introductory text;

■ b. By revising paragraph (d)(1) introductory text; and

■ c. By adding paragraph (f).

§ 63.774 Recordkeeping requirements.

* * * * *

(b) Except as specified in paragraphs (c), (d), and (f) of this section, each owner or operator of a facility subject to this subpart shall maintain the records specified in paragraphs (b)(1) through (11) of this section:

* * * * *

(d)(1) An owner or operator of a glycol dehydration unit that meets the exemption criteria in § 63.764(e)(1)(i) or § 63.764(e)(1)(ii) shall maintain the records specified in paragraph (d)(1)(i) or paragraph (d)(1)(ii) of this section, as appropriate, for that glycol dehydration unit.

* * * * *

(f) The owner or operator of an area source not located within a UA plus offset and UC boundary must keep a record of the calculation used to determine the optimum glycol circulation rate in accordance with § 63.764(d)(2)(i) or § 63.764(d)(2)(ii), as applicable.

■ 10. Section 63.775 is amended as follows:

■ a. By adding paragraph (c);

■ b. By revising paragraph (e) introductory text; and

■ c. By adding paragraph (e)(3).

§ 63.775 Reporting requirements.

* * * * *

(c) Except as provided in paragraph (c)(8), each owner or operator of an area source subject to this subpart shall submit the information listed in paragraph (c)(1) of this section. If the source is located within a UA plus offset and UC boundary, the owner or operator shall also submit the information listed in paragraphs (c)(2) through (6) of this section. If the source is not located within any UA plus offset and UC boundaries, the owner or operator shall also submit the information listed within paragraph (c)(7).

(1) The initial notifications required under § 63.9(b)(2) not later than January 3, 2008. In addition to submitting your initial notification to the addressees specified under § 63.9(a), you must also submit a copy of the initial notification to EPA's Office of Air Quality Planning and Standards. Send your notification via e-mail to *CCG–ONG@EPA.GOV* or via U.S. mail or other mail delivery service to U.S. EPA, Sector Policies and Programs Division/Coatings and Chemicals Group (E143–01), Attn: Oil and Gas Project Leader, Research Triangle Park, NC 27711.

(2) The date of the performance evaluation as specified in § 63.8(e)(2) if an owner or operator is required by the Administrator to conduct a performance evaluation for a continuous monitoring system.

(3) The planned date of a performance test at least 60 days before the test in accordance with § 63.7(b). Unless requested by the Administrator, a site-specific test plan is not required by this subpart. If requested by the Administrator, the owner or operator must submit the site-specific test plan required by § 63.7(c) with the notification of the performance test. A separate notification of the performance test is not required if it is included in the initial notification submitted in accordance with paragraph (c)(1) of this section.

(4) A Notification of Compliance Status as described in paragraph (d) of this section;

(5) Periodic reports as described in paragraph (e)(3) of this section; and

(6) Startup, shutdown, and malfunction reports specified in § 63.10(d)(5). Separate startup, shutdown, and malfunction reports as described in § 63.10(d)(5) are not required if the information is included in the Periodic Report specified in paragraph (e) of this section.

(7) The information listed in paragraphs (c)(1)(i) through (v) of this section. This information shall be submitted with the initial notification.

(i) Documentation of the source's location relative to the nearest UA plus offset and UC boundaries. This information shall include the latitude and longitude of the affected source; whether the source is located in an urban cluster with 10,000 people or more; the distance in miles to the nearest urbanized area boundary if the source is not located in an urban cluster with 10,000 people or more; and the names of the nearest urban cluster with 10,000 people or more and nearest urbanized area.

(ii) Calculation of the optimum glycol circulation rate determined in accordance with § 63.764(d)(2)(i).

(iii) If applicable, documentation of the alternate glycol circulation rate calculated using GRI-GLYCalc™, Version 3.0 or higher and documentation stating why the TEG dehydration unit must operate using the alternate glycol circulation rate.

(iv) The name of the manufacturer and the model number of the glycol circulation pump(s) in operation.

(v) Statement by a responsible official, with that official's name, title, and signature, certifying that the facility will always operate the glycol dehydration unit using the optimum circulation rate determined in accordance with § 63.764(d)(2)(i) or § 63.764(d)(2)(ii), as applicable.

(8) An owner or operator of a TEG dehydration unit located at an area source that meets the criteria in § 63.764(e)(1)(i) or § 63.764(e)(1)(ii) is exempt from the reporting requirements for area sources in paragraphs (c)(1) through (7) of this section, for that unit.

* * * * *

(e) *Periodic Reports.* An owner or operator of a major source shall prepare Periodic Reports in accordance with paragraphs (e) (1) and (2) of this section and submit them to the Administrator. An owner or operator of an area source shall prepare Periodic Reports in accordance with paragraph (e)(3) of this section and submit them to the Administrator.

* * * * *

(3) An owner or operator of an area source located inside a UA plus offset

and UC boundary shall prepare and submit Periodic Reports in accordance with paragraphs (e)(3)(i) through (iii) of this section.

(i) Periodic reports must be submitted on an annual basis. The first reporting period shall cover the period beginning on the date the Notification of Compliance Status Report is due and ending on December 31. The report shall be submitted within 30 days after the end of the reporting period.

(ii) Subsequent reporting periods begin every January 1 and end on December 31. Subsequent reports shall be submitted within 30 days following the end of the reporting period.

(iii) The periodic reports must contain the information included in paragraph (e)(2) of this section.

* * * * *

■ 11. In the Appendix to Subpart HH of Part 63, revise Table 2 to read as follows:

Appendix to Subpart HH of Part 63—Tables

* * * * *

TABLE 2 TO SUBPART HH OF PART 63.—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART HH

General provisions reference	Applicable to subpart HH	Explanation
§ 63.1(a)(1)	Yes.	
§ 63.1(a)(2)	Yes.	
§ 63.1(a)(3)	Yes.	
§ 63.1(a)(4)	Yes.	
§ 63.1(a)(5)	No	Section reserved.
§ 63.1(a)(6)	Yes.	
§ 63.1(a)(7) through (a)(9)	No	Section reserved.
§ 63.1(a)(10)	Yes.	
§ 63.1(a)(11)	Yes.	
§ 63.1(a)(12)	Yes.	
§ 63.1(b)(1)	No	Subpart HH specifies applicability.
§ 63.1(b)(2)	No	Section reserved.
§ 63.1(b)(3)	Yes.	
§ 63.1(c)(1)	No	Subpart HH specifies applicability.
§ 63.1(c)(2)	Yes.	Subpart HH exempts area sources from the requirement to obtain a title V permit unless otherwise required by law as specified in § 63.760(h).
§ 63.1(c)(3) and (c)(4)	No	Section reserved.
§ 63.1(c)(5)	Yes.	
§ 63.1(d)	No	Section reserved.
§ 63.1(e)	Yes.	
§ 63.2	Yes.	Except definition of major source is unique for this source category and there are additional definitions in subpart HH.
§ 63.3(a) through (c)	Yes.	
§ 63.4(a)(1) through (a)(2)	Yes.	
§ 63.4(a)(3) through (a)(5)	No	Section reserved.
§ 63.4(b)	Yes.	
§ 63.4(c)	Yes.	
§ 63.5(a)(1)	Yes.	
§ 63.5(a)(2)	Yes.	
§ 63.5(b)(1)	Yes.	
§ 63.5(b)(2)	No	Section reserved.
§ 63.5(b)(3)	Yes.	
§ 63.5(b)(4)	Yes.	
§ 63.5(b)(5)	No	Section Reserved.
§ 63.5(b)(6)	Yes.	
§ 63.5(c)	No	Section reserved.
§ 63.5(d)(1)	Yes.	
§ 63.5(d)(2)	Yes.	
§ 63.5(d)(3)	Yes.	
§ 63.5(d)(4)	Yes.	
§ 63.5(e)	Yes.	
§ 63.5(f)(1)	Yes.	
§ 63.5(f)(2)	Yes.	
§ 63.6(a)	Yes.	
§ 63.6(b)(1)	Yes.	
§ 63.6(b)(2)	Yes.	
§ 63.6(b)(3)	Yes.	
§ 63.6(b)(4)	Yes.	
§ 63.6(b)(5)	Yes.	
§ 63.6(b)(6)	No	Section reserved.
§ 63.6(b)(7)	Yes.	
§ 63.6(c)(1)	Yes.	
§ 63.6(c)(2)	Yes.	
§ 63.6(c)(3) through (c)(4)	No	Section reserved.
§ 63.6(c)(5)	Yes.	
§ 63.6(d)	No	Section reserved.
§ 63.6(e)	Yes.	

TABLE 2 TO SUBPART HH OF PART 63.—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART HH—Continued

General provisions reference	Applicable to subpart HH	Explanation
§ 63.6(e)(1)(i)	No	Except as otherwise specified. Addressed in § 63.762.
§ 63.6(e)(1)(ii)	Yes.	
§ 63.6(e)(1)(iii)	Yes.	
§ 63.6(e)(2)	No	Section reserved.
§ 63.6(e)(3)(i)	Yes.	Sources exempt under § 63.764(e) and sources located outside UA plus offset and UC boundaries are not required to develop startup, shutdown, and malfunction plans as stated in § 63.762(e).
§ 63.6(e)(3)(i)(A)	No	Except as otherwise specified. Addressed in § 63.762(c).
§ 63.6(e)(3)(i)(B)	Yes.	
§ 63.6(e)(3)(i)(C)	Yes.	
§ 63.6(e)(3)(ii)	No	Section reserved.
§ 63.6(e)(3)(iii) through (3)(vi)	Yes.	
§ 63.6(e)(3)(vii)	Yes.	
§ 63.6(e)(3)(vii) (A)	Yes.	
§ 63.6(e)(3)(vii) (B)	Yes	Except that the plan must provide for operation in compliance with § 63.762(c).
§ 63.6(e)(3)(viii) through (ix)	Yes.	
§ 63.6(f)(1)	Yes.	
§ 63.6(f)(2)	Yes.	
§ 63.6(f)(3)	Yes.	
§ 63.6(g)	Yes.	
§ 63.6(h)	No	Subpart HH does not contain opacity or visible emission standards.
§ 63.6(i)(1) through (i)(14)	Yes.	
§ 63.6(i)(15)	No	Section reserved.
§ 63.6(i)(16)	Yes.	
§ 63.6(j)	Yes.	
§ 63.7(a)(1)	Yes.	
§ 63.7(a)(2)	Yes	But the performance test results must be submitted within 180 days after the compliance date.
§ 63.7(a)(3)	Yes.	
§ 63.7(b)	Yes.	
§ 63.7(c)	Yes.	
§ 63.7(d)	Yes.	
§ 63.7(e)(1)	Yes.	
§ 63.7(e)(2)	Yes.	
§ 63.7(e)(3)	Yes.	
§ 63.7(e)(4)	Yes.	
§ 63.7(f)	Yes.	
§ 63.7(g)	Yes.	
§ 63.7(h)	Yes.	
§ 63.8(a)(1)	Yes.	
§ 63.8(a)(2)	Yes.	
§ 63.8(a)(3)	No	Section reserved.
§ 63.8(a)(4)	Yes.	
§ 63.8(b)(1)	Yes.	
§ 63.8(b)(2)	Yes.	
§ 63.8(b)(3)	Yes.	
§ 63.8(c)(1)	Yes.	
§ 63.8(c)(2)	Yes.	
§ 63.8(c)(3)	Yes.	
§ 63.8(c)(4)	Yes.	
§ 63.8(c)(4)(i)	No	Subpart HH does not require continuous opacity monitors.
§ 63.8(c)(4)(ii)	Yes.	
§ 63.8(c)(5) through (c)(8)	Yes.	
§ 63.8(d)	Yes.	
§ 63.8(e)	Yes	Subpart HH does not specifically require continuous emissions monitor performance evaluation, however, the Administrator can request that one be conducted.
§ 63.8(f)(1) through (f)(5)	Yes.	
§ 63.8(f)(6)	Yes.	
§ 63.8(g)	No	Subpart HH specifies continuous monitoring system data reduction requirements.
§ 63.9(a)	Yes.	
§ 63.9(b)(1)	Yes.	
§ 63.9(b)(2)	Yes	Existing sources are given 1 year (rather than 120 days) to submit this notification. Major and area sources that meet § 63.764(e) do not have to submit initial notifications.
§ 63.9(b)(3)	No	Section reserved.
§ 63.9(b)(4)	Yes.	
§ 63.9(b)(5)	Yes.	

TABLE 2 TO SUBPART HH OF PART 63.—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART HH—Continued

General provisions reference	Applicable to subpart HH	Explanation
§ 63.9(c)	Yes.	
§ 63.9(d)	Yes.	
§ 63.9(e)	Yes.	
§ 63.9(f)	No	Subpart HH does not have opacity or visible emission standards.
§ 63.9(g)(1)	Yes.	
§ 63.9(g)(2)	No	Subpart HH does not have opacity or visible emission standards.
§ 63.9(g)(3)	Yes.	
§ 63.9(h)(1) through (h)(3)	Yes	Area sources located outside UA plus offset and UC boundaries are not required to submit notifications of compliance status.
§ 63.9(h)(4)	No	Section reserved.
§ 63.9(h)(5) through (h)(6)	Yes.	
§ 63.9(i)	Yes.	
§ 63.9(j)	Yes.	
§ 63.10(a)	Yes.	
§ 63.10(b)(1)	Yes.	§ 63.774(b)(1) requires sources to maintain the most recent 12 months of data on site and allows offsite storage for the remaining 4 years of data.
§ 63.10(b)(2)	Yes.	
§ 63.10(b)(3)	Yes	§ 63.774(b)(1) requires sources to maintain the most recent 12 months of data on site and allows offsite storage for the remaining 4 years of data.
§ 63.10(c)(1)	Yes.	
§ 63.10(c)(2) through (c)(4)	No	Sections reserved.
§ 63.10(c)(5) through (c)(8)	Yes.	
§ 63.10(c)(9)	No	Section reserved.
§ 63.10(c)(10) through(c)(15)	Yes.	
§ 63.10(d)(1)	Yes.	
§ 63.10(d)(2)	Yes	Area sources located outside UA plus offset and UC boundaries do not have to submit performance test reports.
§ 63.10(d)(3)	Yes.	
§ 63.10(d)(4)	Yes.	
§ 63.10(d)(5)(i)	Yes	Subpart HH requires major sources to submit a startup, shutdown, and malfunction report semi-annually. Area sources located within UA plus offset and UC boundaries are required to submit startup, shutdown, and malfunction reports annually. Area sources located outside UA plus offset and UC boundaries are not required to submit startup, shutdown, and malfunction reports.
§ 63.10(e)(1)	Yes	Area sources located outside UA plus offset and UC boundaries are not required to submit reports.
§ 63.10(e)(2)	Yes	Area sources located outside UA plus offset and UC boundaries are not required to submit reports.
§ 63.10(e)(3)(i)	Yes	Subpart HH requires major sources to submit Periodic Reports semi-annually. Area sources are required to submit Periodic Reports annually. Area sources located outside UA plus offset and UC boundaries are not required to submit reports.
§ 63.10(e)(3)(i)(A)	Yes.	
§ 63.10(e)(3)(i)(B)	Yes.	
§ 63.10(e)(3)(i)(C)	No	Section reserved.
§ 63.10(e)(3)(ii) through (viii)	Yes.	
§ 63.10(f)	Yes.	
§ 63.11(a) and (b)	Yes.	
§ 63.12(a) through (c)	Yes.	
§ 63.13(a) through (c)	Yes.	
§ 63.14(a) and (b)	Yes.	
§ 63.15(a) and (b)	Yes	
§ 63.16	Yes.	

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–8264–7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: Environmental Protection Agency (EPA) is granting a petition submitted by General Motors Corporation-Arlington Truck Assembly Plant (GM-Arlington) to exclude (or delist) a wastewater treatment plant (WWTP) sludge generated by GM-Arlington in Arlington, TX from the lists of hazardous wastes. This final rule responds to the petition submitted by GM-Arlington to delist F019 WWTP sludge generated from the facility's waste water treatment plant.

After careful analysis and use of the Delisting Risk Assessment Software (DRAS), EPA has concluded the petitioned waste is not hazardous waste. This exclusion applies to 3,000 cubic yards per year of the F019 WWTP sludge. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when it is disposed in a Subtitle D Landfill.

EFFECTIVE DATE: January 3, 2007.

ADDRESSES: The public docket for this final rule is located at the Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and is available for viewing in EPA Freedom of Information Act review room on the 7th floor from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665–6444 for appointments. The reference number for this docket is ''F–05–TXDEL–GM-Arlington.''. The public may copy material from any regulatory docket at no cost for the first 100 pages and at a cost of $0.15 per page for additional copies.

FOR FURTHER INFORMATION CONTACT: Ben Banipal, Section Chief of the Corrective Action and Waste Minimization Section, Multimedia Planning and Permitting Division (6PD–C), Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202. For technical information concerning this notice, contact Youngmoo Kim, Environmental Protection Agency Region 6, 1445 Ross Avenue, (6PD–C), Dallas, Texas 75202, at (214) 665–6788, or *kim.youngmoo@epa.gov.*

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Overview Information

A. What action is EPA finalizing?

After evaluating the petition, EPA proposed, on July 19, 2005, to exclude the waste water treatment plant sludge from the lists of hazardous waste under 40 CFR 261.31 and 261.32 (see 70 FR 41358). EPA is finalizing the decision to grant GM-Arlington's delisting petition to have its waste water treatment sludge managed and disposed as non-hazardous waste provided certain verification and monitoring conditions are met.

B. Why is EPA approving this action?

GM-Arlington's petition requests a delisting from the F019 waste listing under 40 CFR 260.20 and 260.22. GM-Arlington does not believe that the petitioned waste meets the criteria for which EPA listed it. GM-Arlington also believes no additional constituents or factors could cause the waste to be hazardous. EPA's review of this petition included consideration of the original listing criteria and the additional factors required by the Hazardous and Solid Waste Amendments of 1984. See section 3001(f) of RCRA, 42 U.S.C. 6921(f), and 40 CFR 260.22 (d)(1)–(4) (hereinafter all sectional references are to 40 CFR unless otherwise indicated). In making the final delisting determination, EPA evaluated the petitioned waste against the listing criteria and factors cited in § 261.11(a)(2) and (a)(3). Based on this review, EPA agrees with the petitioner that the waste is nonhazardous with respect to the original listing criteria. If EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste as originally listed, EPA would have proposed to deny the petition. EPA evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. EPA considered whether the waste is acutely toxic, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability. EPA believes that the petitioned waste does not meet the listing criteria and thus should not be a listed waste. EPA's final decision to delist waste from GM-Arlington's facility is based on the information submitted in support of this rule, including descriptions of the wastes and analytical data from the Arlington, Texas facility.

C. What are the limits of this exclusion?

This exclusion applies to the waste described in the petition only if the requirements described in 40 CFR Part 261, Appendix IX, Table 1 and the conditions contained herein are satisfied.

D. How will GM-Arlington manage the waste if it is delisted?

The WWTP sludge from GM-Arlington will be disposed of in a RCRA Subtitle D landfill.

E. When is the final delisting exclusion effective?

This rule is effective January 3, 2007. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA, 42 U.S.C. 6930(b)(1), allows rules to become effective less than six months after the rule is published when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous waste. This reduction in existing requirements also provides a

basis for making this rule effective immediately, upon publication, under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

F. How does this final rule affect states?

Because EPA is issuing this exclusion under the Federal RCRA delisting program, only states subject to Federal RCRA delisting provisions would be affected. This would exclude states which have received authorization from EPA to make their own delisting decisions.

EPA allows states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA, 42 U.S.C. 6929. These more stringent requirements may include a provision that prohibits a Federally issued exclusion from taking effect in the state. Because a dual system (that is, both Federal (RCRA) and State (non-RCRA) programs) may regulate a petitioner's waste, EPA urges petitioners to contact the State regulatory authority to establish the status of their wastes under the State law.

EPA has also authorized some states (for example, Louisiana, Oklahoma, Georgia, and Illinois) to administer a RCRA delisting program in place of the Federal program; that is, to make state delisting decisions. Therefore, this exclusion does not apply in those authorized states unless that state makes the rule part of its authorized program. If GM-Arlington transports the petitioned waste to or manages the waste in any state with delisting authorization, GM-Arlington must obtain delisting authorization from that state before it can manage the waste as nonhazardous in the state.

II. Background

A. What is a delisting petition?

A delisting petition is a request from a generator to EPA, or another agency with jurisdiction, to exclude or delist from the RCRA list of hazardous waste, certain wastes the generator believes should not be considered hazardous under RCRA.

B. What regulations allow facilities to delist a waste?

Under §§ 260.20 and 260.22, facilities may petition EPA to remove their wastes from hazardous waste regulation by excluding them from the lists of hazardous wastes contained in §§ 261.31 and 261.32. Specifically, § 260.20 allows any person to petition the Administrator to modify or revoke any provision of 40 CFR Parts 260 through 265 and 268. Section 260.22 provides generators the opportunity to petition the Administrator to exclude a waste from a particular generating facility from the hazardous waste lists.

C. What information must the generator supply?

Petitioners must provide sufficient information to EPA to allow EPA to determine that the waste to be excluded does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the Administrator must determine, where he/she has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste and that such factors do not warrant retaining the waste as a hazardous waste.

III. EPA's Evaluation of the Waste Information and Data

A. What waste did GM-Arlington petition EPA to delist?

On September 14, 2004, GM-Arlington petitioned EPA to exclude from the lists of hazardous wastes contained in §§ 261.31, WWTP sludge (F019) generated from its facility located in Arlington, Texas. The waste falls under the classification of listed waste pursuant to § 261.31.

B. How much waste did GM-Arlington propose to delist?

Specifically, in its petition, GM-Arlington requested that EPA grant a standard exclusion for 3,000 cubic yards per year of the WWTP sludge.

C. How did GM-Arlington sample and analyze the waste data in this petition?

To support its petition, GM-Arlington submitted:

(1) Historical information on waste generation and management practices;

(2) background information and Memorandum of Understanding for the Michigan ECOS project;

(3) analytical results from six samples for total concentrations of COCs; and

(4) analytical results from six samples for Toxicity Characteristic Leaching Procedure(TCLP) extract values.

IV. Public Comments Received on the Proposed Exclusion

A. Who submitted comments on the proposed rule?

Comments were submitted by General Motors Worldwide Facilities Group Environmental Services to correct information contained in the proposed rule and comments in support of granting the petition were submitted by the Alliance of Automobile Manufacturers.

B. What were the comments and what are EPA's responses to them?

1. Waste Disposal in Subtitle D Landfill and Other Authorized States

Comment: GM requests that EPA clarify that GM, at its discretion, has the option to dispose of the waste in any Subtitle D landfill and is not bound to use the site Waste Management landfill. GM also requests that EPA clarify that an authorized state may accept EPA's decision or make their own determinations based upon their own review process. This comment was also supported by the Alliance of Automobile Manufacturers.

Response: EPA does not limit the disposal of the F019 to a specific Subtitle D landfill. EPA states, in the exclusion language on page 41366 of the proposed rule in Table 1, (2)(B), that GM-Arlington can manage and dispose of the nonhazardous WWTP sludge according to all applicable solid waste regulations. GM provided in its petition specific reference to the Waste Management, East Oak Landfill, 3201 Mostley Road, Oklahoma City, OK 73141 as a disposal site for this waste. Since this disposal site is cited in the GM delisting petition and Oklahoma Department of Environmental Quality (ODEQ) is authorized for delisting, GM should consult with ODEQ regarding waste disposal and meet ODEQ requirements. EPA's delisting authority does not apply in Oklahoma. If GM decides to dispose the waste in another Subtitle D landfill in a state not authorized for delisting, GM must notify EPA by a letter regarding the disposal site which meets all applicable Subtitle D solid waste regulations in accordance with the notification requirements in paragraph (7) of the exclusion.

2. Acrylamide

*Comment: In Section III B. of the preamble, EPA states ''Acrylamide was a major compound of concern for other nationwide GM plants' petitions * * *'' GM requests that EPA qualify this statement to accurately reflect that the issues previously experienced regarding acrylamide were due to complex modeling and analytical issues and not tangible environmental issues.*

Response: Acrylamide is not a compound of concern (COC) for the waste at GM-Arlington, because it is not detected in the waste.

3. Corrections

Multiple pH Testing

Comment: EPA incorrectly states that Multiple pH testing was performed on the waste.

Response: Multiple pH is incorrectly stated in Section III C.(5) of the preamble. No multiple pH testing was performed.

Table 1 Correction

Comment: GM requests that EPA revise Table 1, Analytical Results/ Maximum Allowable Concentrations to correct an error; tetracholoethane to tetrachloroethylene.

Response: We acknowledge the typographical error of tetrachoroethylene. However, EPA does not republish supporting tables from the proposed rule. Tetrachloroethylene will not be included in Table 1 because it is a non-detected compound and is not a COC.

Comment: GM requests that EPA Region VI incorporate the same risk level used by EPA Region V for arsenic. EPA should correct the cadmium concentration to 0.36 mg/l. GM is unable to recreate the levels presented for both the inorganic and organic constituents because EPA has yet to make available to the public a current and corrected version of the DRAS model.

Response:

- The maximum TCLP concentration of arsenic is below detection limit and is not a COC for GM-Arlington's delisting exclusion.
- The delisting level for cadmium is 0.36 mg/l and has been corrected in the final exclusion language.
- EPA Region 6 used DRAS Version 2.0 to evaluate risk from disposal of the GM-Arlington wastes. The maximum concentration levels we proposed for the GM-Arlington rule are based on the delisting process. We will provide GM with this Version of the DRAS on CD. The model is run at a risk level of 1×10^{-5} and a hazard quotient of 0.1. EPA Regions 5 and 6 currently use different risk level thresholds for calculating waste concentrations, Region 6 risk assessors feel confident that using the risk level and hazard quotient in this manner provide protective results for all Region 6 petitioners.

Web Link for Accessing DRAS

Comment: The web link referenced in the preamble to access the DRAS model is incorrect. GM suggests that EPA correct this link as follows: http://www.epa.gov/region6/6pd/rcra_c/pd-o/dras/dras.htm.

Response: We acknowledge the web link: *http://www.epa.gov/region6/6pd/rcra_c/pd-o/dras/dras.htm* is incorrect. The link to the risk assessment page of the Delisting Program Webpage is sometimes broken when updates to the web page are made. The DRAS can be accessed by using the Region 6 hazardous waste delisting program page as a point of entry. That web link is currently: *http://www.epa.gov/arkansas/6pd/rcra_c/pd-o/delist.htm.* The DRAS will be associated with the ''risk assessment'' link.

4. Data Submittal/Changes in Operating Conditions

Comment: GM requests that EPA clarify the preamble language to match the language in condition (4) Changes in Operating Conditions, in Table 1. The condition requires EPA approval, when and if, there is a significant change in the waste that may or could result in a significant change in composition of the waste. This comment is also supported by the Alliance of Automobile Manufacturers.

Response: As stated above, we do not republish preamble language. As GM states, the language found in the exclusion language of Appendix IX to Part 261—Waste Excluded Under §§ 260.20 and 260.22. Table 1—Waste Excluded From Non-Specific Sources, explains what GM must do in cases where operating conditions change. Any changes which affect waste composition, waste volume, and toxicants' concentration levels above health-based safe criteria require notification of EPA whether it is a process or an equipment change in operation.

5. Table 1 Delisting Levels

Comment: GM requests that EPA reevaluate the list of constituents of concern identified in the proposed conditions for the delisting. GM requests that 51 chemicals be removed from the list of constituents with corresponding delisting levels. There also 5 chemicals that were detected but the TCLP results were not within 2 orders of magnitude of the DRAS exit level. GM requests that these five chemicals be removed also. This comment is also supported by the Alliance of Automobile Manufacturers.

Response: The undetected constituents will be removed from Table 1. EPA Region 6 lists all detected constituents with a corresponding delisting concentration level in its exclusions. If the concentrations ever exceed the delisting limit, they would go unmonitored because testing was not required for the verification and annual testing. The following sixteen (16) chemicals will remain in the final rule as COCs: (1) Acetone; (2) Ethyl Benzene; (3) n-Butyl Alcohol; (4) Toluene; (5) Bis(2-Ethylhexyl) Phthalate; (6) p-Cresol; (7) Naphthalene; (8) Barium; (9) Cadmium; (10) Chromium; (11) Cobalt; (12) Lead; (13) Nickel; (14) Silver; (15) Tin; and (16) Zinc.

6. Verification Testing

Comment: The verification testing requirements as described in the preamble and proposed conditions for delisting are confusing and inconsistent with other delisting conditions for similar waste streams. This comment is also supported by the Alliance of Automobile Manufacturers.

Response: Delistings are site-specific rule makings. The verification and sampling requirements for a petition will vary and be structured under consideration of the site specific conditions.

Initial Verification Sampling and Quarterly Sampling

Comment: GM believes eight samples required for the initial sampling schedule is overly rigorous and requests that EPA remove the initial sampling verification requirement. GM proposes that it will manage the waste as hazardous until it has performed verification testing of one sample analyzed for ten constituents. Provided that the delisting levels are not exceeded, then GM may manage the waste as nonhazardous. This is consistent with the delisting petition issued in Region 5 for similar facilities. GM-Arlington will be at a competitive disadvantage, if it were to have to manage its wastes differently from those included in the Region 5 petition. This comment is also supported by the Alliance of Automobile Manufacturers.

Response: Sixteen data points are necessary to perform statistical analysis on the data received. GM proposes in its comment to perform only one sample. One sample cannot be a statistical pool. EPA proposed, during the verification period, that 18 samples would be collected. The verification requirements of eight (8) initial samples, 6 samples over the next three quarters, in addition to the 6 samples initially provided was proposed so that enough data would be collected to complete statistical analysis of the data provided. The EPA has considered the comments made by GM and the requirement of eight initial samples will be reduced to two. The number of samples for the quarterly sampling will remain the same, two each quarter for the first year. EPA will not evaluate the data using a statistical approach; we will use the highest concentration of each chemical to evaluate the petition. The Verification Testing Language has been revised to represent the following: (1) Two samples taken in the first 30 days after the exclusion is issued; (2) The report

provided to EPA thirty days after the samples are taken, which is 60 days after the exclusion has been issued—Management of the waste as non-hazardous may begin after the EPA reviews and approves the data; (3) GM must then perform subsequent verification by collecting and analyzing two samples for each sampling event for the next three quarters of the first year. Quarterly reports are due to EPA within 30 days of the sampling event; and (4) After completion of the Initial and Subsequent testing and notification by letter from EPA, GM will be required to collect one sample annually, and provide EPA with the results from the annual verification test within 30 days of the sampling event.

Initial Sludge Management

Comment: GM requests that the Arlington, TX facility be allowed to manage its sludge as non-hazardous upon completion of the first successful verification sampling event.

Response: As stated above, EPA Region 6 will allow GM to manage its waste as non-hazardous if the sludge meets the delisting levels after the initial verification testing.

Retesting

Comment: GM supports the delisting conditions of Table 1, condition 2(c) which allows GM-Arlington to collect one additional sample and perform expedited analysis to verify an exceedance of a delisting level.

Response: While in such limited testing scenarios EPA does not expect a petitioned waste to fail the delisting levels, there are instances where anomalous results may be reported. EPA will allow a petitioner to retest to confirm or disprove an anomalous result.

Reduced Verification Requirements

Comment: GM supports EPA's approach to allow GM to end the quarterly sampling requirement after one year of successfully demonstrating that the waste meets the delisting levels.

Response: Annual sampling is required after one year of quarterly sampling as it states in Table 1 Condition (3)(C)(ii).

Analytical Quality Control Information

Comment: GM requests clarification as to what information will satisfy the requirement in Condition (3)(A)(iii) regarding analytical quality control information.

Response: EPA expects that analytical quality control information and the sample analysis include the data from an equipment blank, quality of distilled water or extraction solvent, duplicates for precision measurement, a spike to measure % recovery for accuracy to define the closeness of the true values of measured data.

7. Data Submittals/Certification Statement

Comment: GM requests that EPA allow GM to replace the certification language proposed with the certification language in 40 CFR 260.22(i)(12), consistent with other delisting petitions granted by EPA for similar waste streams. This comment is also supported by the Alliance of Automobile Manufacturers.

Response: The certification language included in the proposed exclusion is consistent with the language in all EPA Region 6 conditional exclusions. No change to this language will be made.

Other Comments and Changes in the EPA Proposed Rule for GM

1. Page 41360, III A. There is a typographical error ''Felist''. This should be ''Delist''.

2. Page 41360. Arsenic should be deleted from Table 1, since its concentration is below the detection limit.

3. Page 41362. The web link to access the DRAS model should be corrected.

4. Page 41362. The middle column states ''Using the risk level(carcinogenic risk of 10–5 and non-cancer hazard index of 1.0) * * *'' We use a hazard quotient for individual chemical is 0.1, assuming average number of chemicals on site is 10. Therefore, the wording of hazard index of 1.0 should be changed to hazard *quotient of 0.1* because we are talking about the risk level of each chemical. Hazard index means the summation of quotients from individual non-carcinogenic compounds.

5. Page 41366. For Table 1 the number of delisting sixty-six (66) constituents will be reduced to sixteen (16) chemicals by eliminating undetected chemicals.

V. Statutory and Executive Order Reviews

Under Executive Order 12866, ''Regulatory Planning and Review '' (58 FR 51735, October 4, 1993), this rule is not of general applicability and therefore is not a regulatory action subject to review by the Office of Management and Budget (OMB). This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it applies to a particular facility only. Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA. Because this rule will affect only a particular facility, this final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'', (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule. Similarly, because this rule will affect only a particular facility, this final rule does not have tribal implications, as specified in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this rule. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is that the Agency used the DRAS program, which considers health and safety risks to infants and children, to calculate the maximum allowable concentrations for this rule. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866. This rule does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988, ''Civil Justice Reform'', (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The Congressional

Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report which includes a copy of the rule to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f)

Dated: December 20, 2006.

Carl E. Edlund,

Director Multimedia Planning and Permitting Division Region 6.

■ For the reasons set out in the preamble, 40 CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 1. The authority citation for Part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

■ 2. In Table 1 of Appendix IX of Part 261 add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Waste Excluded Under §§ 260.20 and 260.22.

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
General Motors	Arlington, TX	Wastewater Treatment Sludge (WWTP) (EPA Hazardous Waste No. F019) generated at a maximum annual rate of 3,000 cubic yards per calendar year after January 3, 2007 and disposed in a Subtitle D landfill. For the exclusion to be valid, GM-Arlington must implement a verification testing program that meets the following paragraphs: (1) *Delisting Levels:* All leachable concentrations for those constituents must not exceed the following levels (mg/l for TCLP). (i) Inorganic Constituents: Barium-100; Cadmium-0.36; Chromium-5 (3.71) ; Cobalt-18.02; Lead-5; Nickel-67.8; Silver-5; Tin-540; Zinc-673. (ii) Organic Constituents: Acetone-171; Ethylbenzene-31.9; N-Butyl Alcohol-171; Toluene-45.6; Bis(2-Ethylhexyl) Phthalate-0.27; p-Cresol-8.55; Naphthalene-3.11. (2) *Waste Management:* (A) GM-Arlington must manage as hazardous all WWTP sludge generated, until it has completed initial verification testing described in paragraph (3)(A) and (B), as appropriate, and valid analyses show that paragraph(1) is satisfied. (B) Levels of constituents measured in the samples of the WWTP sludge that do not exceed the levels set forth in paragraph (1) are non-hazardous. GM-Arlington can manage and dispose of the non-hazardous WWTP sludge according to all applicable solid waste regulations. (C) If constituent levels in a sample exceed any of the delisting levels set in paragraph (1), GM-Arlington can collect one additional sample and perform expedited analyses to verify if the constituent exceeds the delisting level. If this sample confirms the exceedance, GM-Arlington must, from that point forward, treat the waste as hazardous until it is demonstrated that the waste again meets the levels in paragraph (1). GM-Arlington must manage and dispose of the waste generated under Subtitle C of RCRA from the time it becomes aware of any exceedance. (D) Upon completion of the Verification Testing described in paragraph 3(A) and (B), as appropriate, and the transmittal of the results to EPA, and if the testing results meet the requirements of paragraph (1), GM-Arlington may proceed to manage its WWTP sludge as non-hazardous waste. If subsequent Verification Testing indicates an exceedance of the Delisting Levels in paragraph (1), GM-Arlington must manage the WWTP sludge as a hazardous waste until two consecutive quarterly testing samples show levels below the Delisting Levels in paragraph (1). (3) *Verification Testing Requirements:* GM-Arlington must perform sample collection and analyses, including quality control procedures, according to appropriate methods such as those found in SW–846 or other reliable sources (with the exception of analyses requiring the use of SW–846 methods incorporated by reference in 40 CFR 260.11, which must be used without substitution) for all constituents listed in paragraph (1). If EPA judges the process to be effective under the operating conditions used during the initial verification testing, GM-Arlington may replace the testing required in paragraph (3)(A) with the testing required in paragraph (3)(B). GM-Arlington Plant must continue to test as specified in paragraph (3)(A) until and unless notified by EPA in writing that testing in paragraph (3)(A) may be replaced by paragraph (3)(B). (A) *Initial Verification Testing:* After EPA grants the final exclusion, GM-Arlington must do the following: (i) Within 30 days of this exclusion becoming final, collect two (2) samples, before disposal, of the WWTP sludge. (ii) The samples are to be analyzed and compared against the Delisting Levels in paragraph (1). (iii) Within 60 days of the exclusion becoming final, GM-Arlington must report to EPA the initial verification analytical test data for the WWTP sludge, including analytical quality control information for the first thirty (30) days of operation after this exclusion becomes final. If levels of constituents measured in these samples of the WWTP sludge do not exceed the levels set forth in paragraph (1), GM-Arlington can manage and dispose of the WWTP sludge according to all applicable solid waste regulations.

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(B) *Subsequent Verification Testing:* Following written notification by EPA, GM-Arlington may substitute the testing conditions in paragraph (3)(B) for paragraph (3)(A). GM-Arlington must continue to monitor operating conditions, and analyze two representative samples of the WWTP sludge for the next three quarters of operation during the first year of waste generation. The samples must represent the waste generated during the quarter. Quarterly reports are due to EPA, thirty days after the samples are taken. After the first year of analytical sampling, verification sampling can be performed on a single annual sample of the WWTP sludge. The results are to be compared to the delisting levels in paragraph (1). (C) *Termination of Testing:* (i) After the first year of quarterly testing, if the delisting levels in paragraph (1) are being met, GM-Arlington may then request that EPA not require quarterly testing. (ii) Following cancellation of the quarterly testing by EPA letter, GM-Arlington must continue to test one representative sample for all constituents listed in paragraph (1) annually. Results must be provided to EPA within 30 days of the testing. (4) *Changes in Operating Conditions:* If GM-Arlington significantly changes the process described in its petition or starts any process that generates the waste that may or could significantly affect the composition or type of waste generated as established under paragraph (1) (by illustration, but not limitation, changes in equipment or operating conditions of the treatment process), it must notify EPA in writing; it may no longer handle the wastes generated from the new process as nonhazardous until the wastes meet the delisting levels set in paragraph (1) and it has received written approval to do so from EPA. (5) *Data Submittals:* GM-Arlington must submit the information described below. If GM-Arlington fails to submit the required data within the specified time or maintain the required records on-site for the specified time, EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in paragraph 6. GM-Arlington must: (A) Submit the data obtained through paragraph(3) to the Section Chief, Region 6 Corrective Action and Waste Minimization Section, EPA, 1445 Ross Avenue, Dallas, Texas 75202–2733, Mail Code, (6PD–C) within the time specified. (B) Compile records of operating conditions and analytical data from paragraph (3), summarized, and maintained on-site for a minimum of five years. (C) Furnish these records and data when EPA or the State of Texas requests them for inspection. (D) Send along with all data a signed copy of the following certification statement, to attest to the truth and accuracy of the data submitted: ''Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. If any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion.'' (6) *Re-opener;* (A) If, anytime after disposal of the delisted waste, GM-Arlington possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at a level higher than the delisting level allowed by EPA in granting the petition, then the facility must report the data, in writing, to EPA within 10 days of first possessing or being made aware of that data. (B) If either the quarterly or annual testing of the waste does not meet the delisting requirements in paragraph 1, GM-Arlington must report the data, in writing, to EPA within 10 days of first possessing or being made aware of that data. (C) If GM-Arlington fails to submit the information described in paragraphs (5), (6)(A) or (6)(B) or if any other information is received from any source, EPA will make a preliminary determination as to whether the reported information requires action to protect human health and/or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (D) If EPA determines that the reported information requires action, EPA will notify the facility in writing of the actions it believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information explaining why the proposed EPA action is not necessary. The facility shall have 10 days from the date of EPA's notice to present such information.

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(E) Following the receipt of information from the facility described in paragraph (6)(D) or (if no information is presented under paragraph (6)(D)) the initial receipt of information described in paragraphs (5), (6)(A) or (6)(B), EPA will issue a final written determination describing the actions that are necessary to protect human health and/or the environment. Any required action described in EPA's determination shall become effective immediately, unless EPA provides otherwise. (7) *Notification Requirements:* GM-Arlington must do the following before transporting the delisted waste. Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the decision. (A) Provide a one-time written notification to any state Regulatory Agency to which or through which it will transport the delisted waste described above for disposal, 60 days before beginning such activities. (B) Update the one-time written notification if it ships the delisted waste into a different disposal facility. (C) Failure to provide this notification will result in a violation of the delisting variance and a possible revocation of the decision.
*	*	* * * * *

[FR Doc. E6–22434 Filed 12–29–06; 8:45 am]
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Proposed Rules

Federal Register
Vol. 72, No. 1
Wednesday, January 3, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26710; Directorate Identifier 2006–NM–147–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Boeing Model 757 airplanes. This proposed AD would require revising the Airworthiness Limitations (AWLs) section of the Instructions for Continued Airworthiness by incorporating new limitations for fuel tank systems to satisfy Special Federal Aviation Regulation No. 88 requirements. The proposed AD also would require the initial inspection of certain repetitive inspections specified in the AWLs to phase-in those inspections, and repair if necessary. This proposed AD results from a design review of the fuel tank systems. We are proposing this AD to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by February 20, 2007.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Kathrine Rask, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6505; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–26710; Directorate Identifier 2006–NM–147–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The

percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Relevant Service Information

We have reviewed the following sections of Boeing 757 Maintenance Planning Data (MPD) Document D622N001–9, Section 9, Revision March 2006 (hereafter referred to as ''Revision March 2006 of the MPD''):

- Section E., ''AIRWORTHINESS LIMITATIONS—FUEL SYSTEMS;''
- Section F., ''PAGE FORMAT: SYSTEMS AIRWORTHINESS LIMITATIONS;'' and
- Section G., ''AIRWORTHINESS LIMITATIONS—FUEL SYSTEM AWLs.''

Those sections of Revision March 2006 of the MPD describe new airworthiness limitations (AWLs) for fuel tank systems. The new AWLs include:

- AWL inspections, which are periodic inspections of certain features for latent failures that could contribute to an ignition source; and
- Critical design configuration control limitations (CDCCL), which are limitation requirements to preserve a critical ignition source prevention feature of the fuel tank system design that is necessary to prevent the occurrence of an unsafe condition. The purpose of a CDCCL is to provide instruction to retain the critical ignition source prevention feature during configuration change that may be caused by alterations, repairs, or maintenance actions. A CDCCL is not a periodic inspection.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require revising the AWLs section of the Instructions for Continued Airworthiness by incorporating the information in the service information described previously. The proposed AD also would require the initial inspection of certain repetitive inspections specified in the AWLs to phase-in those inspections, and repair if necessary.

Rework Required When Implementing AWLs Into an Existing Fleet

The AWLs revision for the fuel tank systems specified in paragraph (g) of this proposed AD, which involves incorporating the information specified in Revision March 2006 of the MPD, would affect how operators maintain their airplanes. After doing that AWLs revision, operators would need to do any maintenance on the fuel tank system as specified in the CDCCLs. Maintenance done before doing the AWLs revision specified in paragraph (g) would not need to be redone in order to comply with paragraph (g). For example, the AWL that requires fuel pumps to be repaired and overhauled per an FAA-approved component maintenance manual (CMM) applies to fuel pumps repaired after the AWLs are revised; spare or on-wing fuel pumps do not need to be reworked. For AWLs that require repetitive inspections, the initial inspection interval (threshold) starts from the date the AWL revision specified in paragraph (g) is done, except as provided by paragraph (h) of this proposed AD. This proposed AD would only require the AWLs revision specified in paragraph (g), and initial inspections specified in paragraph (h). No other fleet-wide inspections need to be done.

Changes to Fuel Tank System AWLs

Paragraph (g) of this proposed AD would require revising the AWLs section of the Instructions for Continued Airworthiness by incorporating certain information specified in Revision March 2006 of the MPD into the MPD. Paragraph (g) also allows accomplishing the AWL revision in accordance with later revisions of the MPD as an acceptable method of compliance if they are approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. In addition, Section E. of Revision March 2006 of the MPD specifies that any deviations from the published AWL instructions, including AWL intervals, in that MPD must be approved by the Manager, Seattle ACO. Therefore, after doing the AWLs revision, any revision to an AWL or AWL interval should be done as an AWL change, not as an alternative method of compliance (AMOC). For U.S.-registered airplanes, operators must make requests through an appropriate FAA Principal Maintenance Inspector (PMI) or Principal Avionics Inspector (PAI) for approval by the Manager, Seattle ACO. A non-U.S. operator should coordinate changes with its governing regulatory agency.

Exceptional Short-Term Extensions

Section E. of Revision March 2006 of the MPD has provisions for an exceptional short-term extension of 30 days. An exceptional short-term extension is an increase in an AWL interval that may be needed to cover an uncontrollable or unexpected situation. For U.S.-registered airplanes, the FAA PMI or PAI must concur with any exceptional short-term extension before it is used, unless the operator has identified another appropriate procedure with the local regulatory authority. The FAA PMI or PAI may grant the exceptional short-term extensions described in Section E. without consultation with the Manager, Seattle ACO. A non-U.S. operator should coordinate changes with its governing regulatory agency. As explained in Revision March 2006 of the MPD, exceptional short-term extensions must not be used for fleet AWL extensions. An exceptional short-term extension should not be confused with an operator's short-term escalation authorization approved in accordance with the Operations Specifications or the operator's reliability program.

Ensuring Compliance With Fuel Tank System AWLs

Boeing has revised their applicable maintenance manuals and task cards to address AWLs and to include notes about CDCCLs. Operators that may not use Boeing's revision service should revise their maintenance manuals and task cards to highlight actions that are tied to CDCCLs to ensure that maintenance personnel are complying with the CDCCLs. Appendix 1 of this proposed AD contains a list of Air Transport Association (ATA) sections for the revised maintenance manuals. Operators may wish to use the appendix as an aid to implement the AWLs.

Recording Compliance With Fuel Tank System AWLs

The applicable operating rules of the Federal Aviation Regulations (14 CFR parts 91, 121, 125, and 129) require operators to maintain records with the identification of the current inspection status of an airplane. Some of the AWLs contained in Section G. of Revision March 2006 of the MPD are inspections for which the applicable sections of the operating rules apply. Other AWLs are CDCCLs, which are tied to on-condition maintenance actions. An entry into an operator's existing maintenance record system for corrective action is sufficient for recording compliance with CDCCLs, as long as the applicable maintenance manual and task cards identify actions that are CDCCLs.

Changes to CMMs Cited in Fuel Tank System AWLs

Some of the AWLs in Section G. of Revision March 2006 of the MPD refer to specific revision levels of the CMMs as additional sources of service information for doing the AWLs. Boeing is referencing the CMMs by revision level in the applicable AWL for certain components rather than including information directly in the MPD because of the volume of that information. As a result, the Manager, Seattle ACO must approve the CMMs. Any later revision of those CMMs will be handled like a change to the AWL itself. Any use of parts (including the use of parts manufacturer approval (PMA) approved parts), methods, techniques, and practices not contained in the CMMs need to be approved by the Manager, Seattle ACO, or governing regulatory authority. For example, operators that have developed pump repair/overhaul manuals must get them approved by the Manager, Seattle ACO.

Changes to AMMs Referenced in Fuel Tank System AWLs

In other AWLs in Subsection G. of Revision March 2006 of the MPD, the AWLs contain all the necessary data. The applicable section of the maintenance manual is usually included in the AWLs. Boeing intended this information to assist operators in maintaining the maintenance manuals. A maintenance manual change to these tasks can be made without approval by the Manager, Seattle ACO, through an appropriate FAA PMI or PAI, by the governing regulatory authority, or by using the operator's standard process for revising maintenance manuals. An acceptable change would have to maintain the information specified in the AWL such as the pass/fail criteria or special test equipment.

Costs of Compliance

There are about 990 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Revision of AWL of the Instructions for Continued Airworthiness	8	$80	$640	639	$408,960
Detailed and special detailed inspections	8	$80	$640	639	$408,960

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2006–26710; Directorate Identifier 2006–NM–147–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by February 20, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections and maintenance actions. Compliance with these limitations is

required by 14 CFR 43.16 and 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these limitations, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 43.16 and 91.403(c), the operator must request approval for revision to the airworthiness limitations (AWLs) in the Boeing 757 Maintenance Planning Data (MPD) Document D622N001–9 according to paragraph (g) of this AD.

Unsafe Condition

(d) This AD results from a design review of the fuel tank systems. We are issuing this AD to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Service Information

(f) The term ''Revision March 2006 of the MPD'' as used in this AD, means Section 9 of Boeing 757 MPD Document D622N001–9, Revision March 2006.

Revision of AWLs Section

(g) Within 18 months after the effective date of this AD, revise the AWLs section of the Instructions for Continued Airworthiness by incorporating the information in the sections specified in paragraphs (g)(1) through (g)(3) of this AD into the MPD, except that the inspections specified in Table 1 of this AD may be done at the compliance times specified in Table 1. Accomplishing the revision in accordance with a later revision of the MPD is an acceptable method of compliance if the revision is approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA.

(1) Section E., ''AIRWORTHINESS LIMITATIONS—FUEL SYSTEMS,'' of Revision March 2006 of the MPD.

(2) Section F., ''PAGE FORMAT: SYSTEMS AIRWORTHINESS LIMITATIONS,'' of Revision March 2006 of the MPD.

(3) Section G., ''AIRWORTHINESS LIMITATIONS—FUEL SYSTEM AWLs'' of Revision March 2006 of the MPD.

Initial Inspections and Repair

(h) Do the inspections specified in Table 1 of this AD and repair any discrepancy, in accordance with Section G., ''AIRWORTHINESS LIMITATIONS—FUEL SYSTEM AWLs,'' of Revision March 2006 of the MPD. The repair must be done before further flight.

TABLE 1.—INITIAL INSPECTIONS

Airworthiness Limitations Number	Description	Compliance Time (whichever occurs later)	
		Threshold	Grace Period
(1) 28–AWL–01	A detailed inspection of external wires over the center fuel tank for damaged clamps, wire chafing, and wire bundles in contact with the surface of the center fuel tank.	Before the accumulation of 36,000 total flight cycles, or within 120 months since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, whichever occurs first.	Within 72 months after the effective date of this AD.
(2) 28–AWL–03	A special detailed inspection of the lightning shield to ground termination on the out-of-tank fuel quantity indicating system to verify functional integrity.	Before the accumulation of 36,000 total flight cycles, or within 120 months since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, whichever occurs first.	Within 24 months after the effective date of this AD
(3) 28–AWL–14	A special detailed inspection of the fault current bond of the fueling shut-off valve actuator of the center wing tank to verify electrical bond.	Before the accumulation of 36,000 total flight cycles, or within 120 months since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, whichever occurs first.	Within 60 months after the effective date of this AD

Note 2: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

Note 3: For the purposes of this AD, a special detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. The examination is likely to make extensive use of specialized inspection techniques and/or equipment. Intricate cleaning and substantial access or disassembly procedure may be required.''

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle ACO has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Issued in Renton, Washington, on December 21, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

Appendix 1. Fuel Tank System Airworthiness Limitations—Applicable Maintenance Manuals

AWL #	ALI/CDCCL	ATA section or CMM document	Task title	Task #
28–AWL–01	ALI	AMM 28–11–00/601	External Wires Over the Center Tank Inspection.	28–11–00–206–221.

AWL #	ALI/CDCCL	ATA section or CMM document	Task title	Task #
28–AWL–02	CDCCL	SWPM 20–10–11	Wiring Assembly and Installation Configuration.	
28–AWL–03	ALI	AMM 20–55–54/601	FQIS Connectors—Inspection/ Check.	20–55–54–286–001.
28–AWL–04	CDCCL	SWPM 20–10–15	Assembly of Shield Ground Wires.	
28–AWL–05	CDCCL	SWPM 20–10–11	Wiring Assembly and Installation Configuration.	
28–AWL–06	CDCCL	CMM 28–41–68 Revision 4 or subsequent revisions.		
28–AWL–07	CDCCL	CMM 28–40–56, Revision 4; CMM 28–40–62, revision 3; CMM 28–40–59, revision 5; or subsequent revisions.		
28–AWL–08	CDCCL	SWPM 20–14–12	Repair of Fuel Quantity Indicator System (FQIS) Wire Harness.	
		AMM 28–41–09/401	Install the Tank Wiring Harness.	Varies with configuration
28–AWL–09	CDCCL	AMM 29–11–26/401	Install the Heat Exchanger.	29–11–26–404–012.
28–AWL–10	CDCCL	AMM 28–22–07/401	Install the Fuel Line and Fittings.	28–22–07–404–005.
28–AWL–11	CDCCL.			
28–AWL–12	CDCCL	CMM 28–22–08, revision 3; CMM 28–20–02, revision 9; or subsequent revisions.		
28–AWL–13	CDCCL	AMM 28–22–03/401	Install the Fuel Boost Pump Assembly or the Fuel Override Pump Assembly.	28–22–03–404–007.
28–AWL–14	ALI	AMM 28–21–02/401	Fueling Shutoff Valve Resistance Check.	28–21–02–764–047.
28–AWL–15	CDCCL	AMM 28–21–02/401	Install the Fueling Shutoff Valve.	28–21–02–404–019.
		AMM 28–21–12/401	Install the Actuator of the Fueling Shutoff Valve.	28–21–12–404–015.
28–AWL–16	CDCCL	AMM 28–11–01/401	Install the Main Tank Access Door.	28–11–01–404–014.
		AMM 28–11–02/401	Install the Center Tank Access Door.	28–11–02–404–019.
		AMM 28–11–03/401	Install the Surge Tank Access Door.	28–11–03–404–008.
28–AWL–17	CDCCL	AMM 28–11–03/401	Install the Surge Tank Access Door.	28–11–03–404–008.
		AMM 28–13–04/201	Install the Pressure Relief Valve.	28–13–04–402–014.
28–AWL–18	CDCCL	AMM 28–11–03/401	Install the Surge Tank Access Door.	28–11–03–404–008.
		AMM 28–13–05/401	Install the Housing of the Vent Flame Arrestor.	28–13–05–404–004.
28–AWL–19	CDCCL	FIM 28–22–00/101	Engine Fuel Feed System—Fault Isolation.	
28–AWL–20	ALI	AMM 28–22–00/501	Center Tank Fuel Override Pump Auto Shutoff Functional Test.	28–22–00–725–507.
28–AWL–21	ALI	AMM 28–22–00/501.		
28–AWL–22	CDCCL	AMM 28–41–24/401	Densitometer Hot Short Protector Installation.	28–41–24–404–006.
28–AWL–23	CDCCL	AMM 28–22–01/401. AMM 28–22–02/401. AMM 28–22–11/401. AMM 28–22–12/401. AMM 28–26–01/401. AMM 28–26–02/401.		
28–AWL–24	CDCCL	CMM 28–20–21.		

[FR Doc. E6–22469 Filed 12–29–06; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 91, 135

[Docket No. FAA–2006–24981; Notice No. 06–14A]

RIN 2120–AI82

Special Federal Aviation Regulation No. XX—Mitsubishi MU–2B Series Airplane Special Training, Experience, and Operating Experience

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration (FAA) is revising its proposed Special Federal Aviation Regulation that would be applicable to the Mitsubishi MU–2B series airplane. As a result of comments received on the notice of proposed rulemaking, the FAA is amending the proposal to add certain definitions related to pilot experience into the Mitsubishi training program. This document seeks public comment on those changes.

DATES: Send your comments on or before February 2, 2007.

ADDRESSES: You may send comments to Docket No. FAA–2006–24981 using any of the following methods:

- Department of Transportation (DOT) Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Fax: 1–202–493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Pete Devaris, Federal Aviation Administration, General Aviation and Commercial Division AFS–820, Room 835, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 493–4710; facsimile (202) 267–5094; or e-mail: *Peter.Devaris@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Privacy Act: Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Proprietary or Confidential Business Information

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD ROM, mark the outside of the disk or CD ROM and also identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/*; or

(3) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html.*

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The Federal Aviation Administration's (FAA) authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator to issue, rescind, and revise the rules. This rulemaking is promulgated under the authority described in Subtitle VII, Aviation Programs, Part A, Air Commerce and Safety, Subpart III, Safety, Section 44701, General Requirements. Under that section, the FAA is charged with prescribing regulations setting the minimum standards for practices, methods, and procedures necessary for safety in air commerce. This regulation is within the scope of that authority because it will set the minimum level of safety to operate the Mitsubishi MU–2B series airplane.

The Reasons for a Revised Proposal

The FAA issued a notice of proposed rulemaking, Special Federal Aviation Regulation No. XX—Mitsubishi MU–2B Series Airplane Special Training, Experience, and Operating Experience, which was published in the **Federal**

Register on September 28, 2006 (71 FR 56905). After the close of the comment period on October 30, 2006, the FAA received two comments on specific provisions of the Mitsubishi Training Program that would become mandatory under the proposed rule. Both commenters noted that the term ''operating experience'' in the past 2 years as used as a threshold for Requalification training was not defined and suggested that the FAA clarify the meaning of the term ''operating experience'' with a reference to a specified number of flight hours of Mitsubishi MU–2B series airplane experience.

With this supplemental notice the FAA proposes to define the terms ''Initial/Transition,'' ''Requalification,'' and ''Recurrent'' training to clarify the phrase ''operating experience'' as that phrase is used in the Mitsubishi MU–2B Training Program, Part Number YET05301, revision 1. The FAA's intent in the NPRM was that, depending upon a pilot's level of ''operating experience,'' the pilot would be required to take a specific level of training—Initial/Transition, Requalification, or Recurrent. Because we were not specific in use of the term ''operating experience,'' the public was not advised as to the circumstances where the FAA expected a pilot to undergo Initial/Transition training versus Requalification training or Recurrent training. Without specific guidance, a pilot might attend Requalification training, when it was the intention of the FAA that the pilots attend Initial/Transition training, which is more demanding than Requalification or Recurrent training.

The FAA has been monitoring training implementation. We believe that some pilots, with little or no experience flying the Mitsubishi MU–2B series airplane, may request training at the Requalification level when it was the FAA's intention that such pilots attend training at the Initial/Transition level. In this scenario a pilot could attend Requalification training without any previous experience in actually flying the airplane. The FAA notes that requalification can be conducted entirely in a FAA approved level 5 or higher Flight Training Device (FTD), or simulator. A pilot could complete Requalification training without ever having flown the actual airplane. We consider this a serious compromise to the level of safety we intended to provide. It is of particular urgency that the training program be revised so that such an option is not available.

Although the comment period has closed, we find that these comments should be addressed by the FAA, clarifying the levels of experience required with a specific number of hours as suggested by the commenters. Thus, we are issuing this SNPRM to seek the public's comments on the revised definitions provided in this document.

If adopted, the definitions we are proposing may be part of a new definitional section of the SFAR or we may choose to incorporate them into a revision to the Mitsubishi MU–2B Training Program. We have included the proposed revision as it would appear in a revised Mitsubishi Training Program and as it would appear if we place the definitions into the language of the SFAR.

When the FAA prepared the draft Regulatory Evaluation for the proposed SFAR, we assumed that only experienced pilots would be eligible for Requalification or Recurrent training and we assumed those pilots would have, at a minimum, the levels of experience set forth in the new proposed definitions. Therefore, providing a more explicit definition of operating experience would not increase the estimated costs in the draft regulatory evaluation.

The Definitions

The following definitions appeared in the Mitsubishi MU2–B Training Program, revision 1, which was placed in the Rules Docket and available for public comment:

Initial/Transition training applies to any pilot without documented MU–2B pilot operating experience in the last two years. Simultaneous training and checking is not allowed for Initial/Transition Training.

Requalification training applies to any pilot with documented MU–2B pilot operating experience in the last two years, but who does not meet the eligibility requirements for Recurrent Training.

Recurrent training applies to any pilot who completed and has documented training on this FAA-Approved Mitsubishi Training Program for the MU–2B in the last 12 months and is MU–2B current in accordance with the MU–2B Special Federal Aviation Regulations (SFAR). Training completed the month before or after the month it is due is considered completed in the month due (base month).

The New Definitions

The FAA is proposing the following new definitions as part of this supplemental notice of proposed rulemaking:

Initial/Transition training means the training that a pilot is required to receive if that pilot has fewer than 50 hours of documented flight time manipulating the controls, while serving as pilot-in-command, of a Mitsubishi MU–2B series airplane in the preceding 24 months.

Requalification training means the training that a pilot is—

(a) Eligible to receive in lieu of Initial/Transition training if that pilot has at least 50 hours of documented flight time manipulating the controls, while serving as pilot-in-command, of a Mitsubishi MU–2B series airplane in the preceding 24 months; and

(b) Required to receive if it has been more than 12 months since that pilot successfully completed Initial/Transition, Requalification, or Recurrent training. Successful completion of Initial/Transition training can be used to satisfy the requirements of Requalification training.

Recurrent training means the training that a pilot is required to have satisfactorily completed within the preceding 12 months. Successful completion of Initial/Transition or Requalification training within the preceding 12 months satisfies the requirement of Recurrent training. A pilot must successfully complete Initial/Transition training or Requalification training before being eligible to receive Recurrent training.

Listed below are explanations for the proposed new definitions in this SNPRM.

Initial/Transition training. Pilots with little or no previous experience flying the Mitsubishi MU–2B series airplane would be required to take Initial/Transition training under this proposed SFAR. Pilots required to take Initial/Transition training include those who have had less than 50 hours of flight time manipulating the controls while serving as the pilot-in-command of an MU–2B. We believe that pilots who have fewer than 50 hours of such flight time in the MU–2B within the preceding 24 months are not sufficiently familiar with the airplane's operating systems or safe operational techniques and procedures. Therefore, Initial/Transition training would provide those pilots with a curriculum comprehensive enough to reduce the chances of an accident or incident arising from a lack of familiarity with the airplane's operational systems, techniques, and procedures.

The FAA thinks that the complexity of this airplane requires that a pilot repeatedly receive training on an annual basis and actively fly this airplane in order to maintain an acceptable level of

proficiency. Under the proposed definition, a pilot may be required to repeat Initial/Transition training if he or she has not accumulated 50 hours of flight time in the preceding 24 months.

Requalification Training. The FAA would like to emphasize two important elements of Requalification training. First, pilots would be eligible for Requalification training, in lieu of Initial/Transition training, if within the preceding 24 months they have documented at least 50 hours of flight time while serving as pilot-in-command and manipulating the controls of an MU–2B series airplane. The FAA recognizes that those pilots, who are actively flying the MU–2B series airplane to this level, may have sufficient familiarity with the airplane's handling characteristics and operating systems, and therefore, the more in-depth and comprehensive Initial/Transition training would not be necessary. In this case, the Requalification training is an acceptable alternative to Initial/Transition training.

Second, pilots who fail to successfully complete Initial/Transition, Requalification, or Recurrent training within the preceding 12 months must attend Requalification training (*i.e.*, they are not eligible for Recurrent training) before they could operate the MU–2B series airplane. If the pilot chooses to take Initial/Transition training in lieu of Requalification training, Initial/Transition training would satisfy all the requirements of Requalification training.

Recurrent training. All persons who operate the MU–2B series airplane must satisfactorily complete Recurrent training within the preceding 12 months. Successful completion of Initial/Transition or Requalification training within the preceding 12 months satisfies the requirement of Recurrent training. A pilot must successfully complete Initial/Transition training or Requalification training before being eligible to receive Recurrent training.

Proposed Revision to the Mitsubishi Training Program

If the FAA elects to revise the Mitsubishi MU–2B Training Program, revision 1, we would correct the language as set out in this section.

MU–2B SERIES

TRAINING PROGRAM

TRAINING REQUIREMENTS

* * * * *

Initial/Transition training means the training that a pilot is required to receive if that pilot has fewer than 50 hours of documented flight time manipulating the controls, while serving as pilot-in-command, of a Mitsubishi MU–2B series airplane in the preceding 24 months.

Requalification training means the training that a pilot is—

(a) Eligible to receive in lieu of Initial/Transition training if that pilot has at least 50 hours of documented flight time manipulating the controls, while serving as pilot-in-command, of a Mitsubishi MU–2B series airplane in the preceding 24 months; and

(b) Required to receive if it has been more than 12 months since that pilot successfully completed Initial/Transition, Requalification, or Recurrent training. Successful completion of Initial/Transition training can be used to satisfy the requirements of Requalification training.

Recurrent training means the training that a pilot is required to have satisfactorily completed within the preceding 12 months. Successful completion of Initial/Transition or Requalification training within the preceding 12 months satisfies the requirement of Recurrent training. A pilot must successfully complete Initial/Transition training or Requalification training before being eligible to receive Recurrent training.

* * * * *

Paperwork Reduction Act

The FAA has submitted the paperwork requirements for this rulemaking to the Office of Management and Budget for approval. There were no comments received on the paperwork as a result of the publication of the NPRM, and the paperwork requirements are not changed by the clarification of the terms in this proposal.

International Compatibility

The FAA has determined that a review of the Convention on International Civil Aviation Standards and Recommended Practices is not warranted because there is no comparable rule under ICAO Standards.

Executive Order 12866 and DOT Regulatory Policies and Procedures

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires agencies to consider international standards and, where appropriate, use them as the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation.)

In conducting these analyses, FAA determined that the proposed rule (1) has benefits which do justify its costs, is not a ''significant regulatory action'' as defined in the Executive Order and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; (2) will not have a significant impact on a substantial number of small entities; (3) reduces barriers to international trade; and (4) does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector. This supplemental proposal is simply a clarification of the FAA intent and thus would not increase the estimated costs in the initial regulatory evaluation.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, (5 U.S.C. 601 *et seq.*) directs the FAA to fit regulatory requirements to the scale of the business, organizations, and governmental jurisdictions subject to the regulation. We are required to determine whether a proposed or final action will have a significant impact on a substantial number of ''small entities'' as defined by the Act. If we find that the action will have a significant impact, we must do a ''regulatory flexibility analysis.''

This clarification of the proposed rule has a minimal economic impact. Therefore, we certify that this proposed action would not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. The FAA has assessed

the potential effect of this supplemental notice and has determined that it will impose the same costs on domestic and international entities and thus has a neutral trade impact.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $128.1 million in lieu of $100 million.

This supplemental notice does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the State, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we have determined that this proposed rule does not have federalism implications.

Environmental Impact

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion and involves no extraordinary circumstances.

List of Subjects

14 CFR Part 61

Aircraft, Airmen, Aviation Safety, Incorporation by reference, Reporting and recordkeeping requirements, Safety measures.

14 CFR Part 91

Aircraft, Airmen, Airports, Aviation safety, Freight, Incorporation by reference, Reporting and recordkeeping requirements.

14 CFR Part 135

Air taxis, Aircraft, Airmen, Aviation safety, Incorporation by reference, Reporting and recordkeeping requirements.

The Proposal

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations, as follows:

PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS

1. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

2. Add Special Federal Aviation Regulation (SFAR) No. XX as follows:

Special Federal Aviation Regulations

* * * * *

SFAR No. XX—Mitsubishi MU–2B Series Airplane Special Training, Experience, and Operating Requirements

Note: For the text of SFAR No. XX, see part 91 of this chapter.

PART 91—GENERAL OPERATING AND FLIGHT RULES

3. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

4. Add SFAR No. XX to read as follows:

Special Federal Aviation Regulation (SFAR) No. XX—Mitsubishi MU–2B Series Special Training, Experience, and Operating Requirements

Note: The FAA proposes to add the following language to its proposal at 71 FR 56905, September 28, 2006.

* * * * *

X. Definitions. As used in this Special Federal Aviation Regulation:

Initial/Transition training means the training that a pilot is required to receive if that pilot has fewer than 50 hours of documented flight time manipulating the controls, while serving as pilot-in-command, of a Mitsubishi MU–2B series airplane in the preceding 24 months.

Requalification training means the training that a pilot is—

(a) Eligible to receive in lieu of Initial/Transition training if that pilot has at least 50 hours of documented flight time manipulating the controls, while serving as pilot-in-command, of a Mitsubishi MU–2B series airplane in the preceding 24 months; and

(b) Required to receive if it has been more than 12 months since that pilot successfully completed Initial/Transition, Requalification, or Recurrent training. Successful completion of Initial/Transition training can be used to satisfy the requirements of Requalification training.

Recurrent training means the training that a pilot is required to have satisfactorily completed within the preceding 12 months. Successful completion of Initial/Transition or Requalification training within the preceding 12 months satisfies the requirement of Recurrent training. A pilot must successfully complete Initial/Transition training or Requalification training before being eligible to receive Recurrent training.

* * * * *

PART 135—OPERATING REQUIREMENTS: COMMUTERS AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT.

5. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 41706, 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

6. Add Special Federal Aviation Regulation (SFAR) No. XX as follows:

Special Federal Aviation Regulations

* * * * *

SFAR No. XX—Mitsubishi MU–2B Series Airplane Special Training, Experience, and Operating Requirements

Note: For the text of SFAR No. XX, see part 91 of this chapter.

Issued in Washington, DC on December 22, 2006.

John M. Allen,

Acting Director, Flight Standards Service.

[FR Doc. E6–22438 Filed 12–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 9

[Public Notice 5658]

RIN 1400–AB91

National Security Information Regulations

AGENCY: Department of State.

ACTION: Proposed rule with request for comment.

SUMMARY: The Department of State proposes to revise its regulations governing the classification of national security information that is under the control of the Department in order to reflect the provisions of a new executive order on national security information and consequent changes in the Department's procedures since the last revision of the Department's regulations on this subject.

COMMENT DATES: The Department will consider any comments from the public that are received by April 3, 2007.

ADDRESSES: You may submit comments to Margaret P. Grafeld, Director, Office of Information Programs and Services, (202) 261–8300, U.S. Department of State, SA–2, 515 22nd St. NW., Washington. DC 20522–6001; *FAX:* 202–261–8590. E-mail *GrafeldMP@state.gov.* If submitting comments by e-mail, you must include the RIN in the subject line of your message. You may view this rule online at *http://www.regulations.gov/index.cfm.*

FOR FURTHER INFORMATION, CONTACT: Margaret P. Grafeld, Director, Office of Information Programs and Services, (202) 261–8300, U.S. Department of State, SA–2, 515 22nd St. NW., Washington. DC 20522–6001; *FAX:* 202–261–8590.

SUPPLEMENTARY INFORMATION: Since the last version of Part 9 of 22 CFR was published, the executive order governing classification of national security information has been superseded by E.O 12958, effective October 14, 1995. Since its promulgation, E.O. 12958 has been amended several times, most recently and most substantially by Executive Order 13292 dated March 28, 2003, which effected changes in classification categories, provisions regarding the duration of classification, provisions regarding reclassification of previously declassified and released information, and the disclosure of classified information in an emergency. In addition, in contrast to the indefinite classification provisions of E.O. 12356, the new executive order provides for classification for up to 25 years under certain criteria and, in certain circumstances, classification beyond 25 years under more stringent criteria.

Regulatory Findings

Administrative Procedure Act. The Department is publishing this rule as a proposed rule. Public comments are invited for a period of 90 days following this document's publication in the **Federal Register**.

Regulatory Flexibility Act. The Department, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule and, by approving it, certifies that this rule will not have significant economic impact on a substantial number of small entities.

Unfunded Mandates Act of 1995. This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year, and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfounded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996. This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

Executive Order 12866. The Department does not consider this rule to be a ''significant regulatory action'' under Executive Order (E.O.) 12866, section 3(f), Regulatory Planning and Review. In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

Executive Order 13132. This regulation will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act. This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 9

Original classification, original classification authorities, derivative classification, classification challenges, declassification and downgrading, mandatory declassification review, systematic declassification review, safeguarding.

For the reasons set forth in the preamble, Title 22, Part 9 of the Code of Federal Regulations is proposed to be revised as follows:

PART 9—SECURITY INFORMATION REGULATIONS

Sec.

Authority: E.O. 12958 (60 FR 19825, April 20, 1995) as amended; Information Security Oversight Office Directive No. 1, 32 CFR 2001 (68 FR 55168, Sept. 22, 2003)

§ 9.1 Basis.

These regulations, taken together with the Information Security Oversight Office Directive No. 1 dated September 22, 2003, and Volume 5 of the Department's Foreign Affairs Manual, provide the basis for the security classification program of the U.S. Department of State (''the Department'') implementing Executive Order 12958, ''Classified National Security Information'', as amended (''the Executive Order'').

§ 9.2 Objective.

The objective of the Department's classification program is to ensure that national security information is protected from unauthorized disclosure, but only to the extent and for such a period as is necessary.

§ 9.3 Senior agency official.

The Executive Order requires that each agency that originates or handles classified information designate a senior agency official to direct and administer its information security program. The Department's senior agency official is the Under Secretary of State for Management. The senior agency official is assisted in carrying out the provisions of the Executive Order and the Department's information security program by the Assistant Secretary for Diplomatic Security, the Assistant Secretary for Administration, and the Deputy Assistant Secretary for Information Sharing Services.

§ 9.4 Original classification.

(a) *Definition.* Original classification is the initial determination that certain information requires protection against unauthorized disclosure in the interest of national security (i.e., national defense or foreign relations of the United States), together with a designation of the level of classification.

(b) *Classification levels.*

(1) *Top Secret* shall be applied to information the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security that the original classification authority is able to identify or describe.

(2) *Secret* shall be applied to information the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security that the original classification authority is able to identify or describe.

(3) *Confidential* shall be applied to information the unauthorized disclosure of which reasonably could be expected to cause damage to the national security that the original classification authority is able to identify or describe.

(c) *Classification requirements and limitations.*

(1) Information may not be considered for classification unless it concerns:

(i) Military plans, weapons systems, or operations;

(ii) Foreign government information;

(iii) Intelligence activities (including special activities), intelligence sources or methods, or cryptology;

(iv) Foreign relations or foreign activities of the United States, including confidential sources;

(v) Scientific, technological, or economic matters relating to the national security; which includes defense against transnational terrorism;

(vi) United States Government programs for safeguarding nuclear materials or facilities;

(vii) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to the national security, which includes defense against transnational terrorism; or

(viii) Weapons of mass destruction.

(2) In classifying information, the public's interest in access to government information must be balanced against the need to protect national security information.

(3) In no case shall information be classified in order to conceal violations of law, inefficiency, or administrative error, or to prevent embarrassment to a person, organization, or agency, to restrain competition, or to prevent or delay the release of information that does not require protection in the interest of the national security.

(4) A reference to classified documents that does not directly or indirectly disclose classified information may not be classified or used as a basis for classification.

(5) Only information owned by, produced by or for, or under the control of the U.S. Government may be classified.

(6) The unauthorized disclosure of foreign government information is presumed to cause damage to national security.

(d) *Duration of classification.*

(1) Information shall be classified for as long as is required by national security considerations, subject to the limitations set forth in section 1.5 of the Executive Order. When it can be determined, a specific date or event for declassification in less than 10 years shall be set by the original classification authority at the time the information is originally classified. If a specific date or event for declassification cannot be determined, information shall be marked for declassification 10 years from the date of the original decision, unless the original classification authority determines that the sensitivity of the information requires that it shall be marked for declassification for up to 25 years.

(2) An original classification authority may extend the duration of classification, change the level of classification, or reclassify specific information only when the standards and procedures for classifying information under the Executive Order are met.

(3) Information marked for an indefinite duration of classification under predecessor orders, such as ''Originating Agency's Determination Required '' (OADR) or containing no declassification instructions shall be subject to the declassification provisions of Part 3 of the Order, including the provisions of section 3.3 regarding automatic declassification of records older than 25 years.

§ 9.5 Original classification authority.

(a) Authority for original classification of information as *Top Secret* may be exercised by the Secretary and those officials delegated this authority in writing by the Secretary. Such authority has been delegated to the Deputy Secretary, the Under Secretaries, Assistant Secretaries and other Executive Level IV officials and their deputies; Chiefs of Mission, Charge d'Affaires, and Principal Officers at autonomous posts abroad; and to other officers within the Department as set forth in Department Notice dated May 26, 2000.

(b) Authority for original classification of information as *Secret* or *Confidential* may be exercised only by the Secretary, the Senior Agency Official, and those officials delegated this authority in writing by the Secretary or the Senior Agency Official. Such authority has been delegated to Office Directors and Division Chiefs in the Department, Section Heads in Embassies and Consulates abroad, and other officers within the Department as set forth in Department Notice dated May 26, 2000. In the absence of the Secret or Confidential classification authority, the person designated to act for that official may exercise that authority.

§ 9.6 Derivative classification.

(a) *Definition.* Derivative classification is the incorporating, paraphrasing, restating or generating in new form information that is already classified and the marking of the new material consistent with the classification of the source material. Duplication or reproduction of existing classified information is not derivative classification.

(b) *Responsibility.* Information classified derivatively from other classified information shall be classified and marked in accordance with instructions from an authorized classifier or in accordance with an authorized classification guide and shall comply with the standards set forth in sections 2.1–2.2 of the Executive Order and the ISOO implementing directives in 32 CFR 2001.22.

(c) *Department of State Classification Guide.* The Department of State Classification Guide (DSCG) is the primary authority for the classification of information in documents created by Department of State personnel. The Guide is classified ''Confidential'' and is found on the Department of State's classified Web site.

§ 9.7 Identification and marking.

(a) Classified information shall be marked pursuant to the standards set forth in section 1.6 of the Executive Order; ISOO implementing directives in 32 CFR 2001, Subpart B; and internal Department guidance in 12 Foreign Affairs Manual (FAM).

(b) Foreign government information shall retain its original classification markings or be marked and classified at a U.S. classification level that provides a degree of protection at least equivalent to that required by the entity that furnished the information. Foreign government information retaining its original classification markings need not be assigned a U.S. classification marking provided the responsible agency determines that the foreign government markings are adequate to meet the purposes served by U.S. classification markings.

(c) Information assigned a level of classification under predecessor executive orders shall be considered as classified at that level of classification.

§ 9.8 Classification challenges.

(a) *Challenges.* Holders of information pertaining to the Department of State who believe that its classification status is improper are expected and encouraged to challenge the classification status of the information. Holders of information making challenges to the classification status of information shall not be subject to retribution for such action. Informal, usually oral, challenges are encouraged. Formal challenges to classification actions shall be in writing to an original classification authority (OCA) with jurisdiction over the information and a copy of the challenge shall be sent to the Office of Information Programs and Services (IPS) of the Department of State, SA–2, 515 22nd St. NW., Washington, DC 20522–6001. The Department (either the OCA or IPS) shall provide an initial response in writing within 60 days.

(b) *Appeal procedures and time limits.* A negative response may be appealed to the Department's Appeals Review Panel (ARP) and should be sent to: Chairman, Appeals Review Panel, c/o Information and Privacy Coordinator/Appeals Officer, at the IPS address given above. The appeal shall include a copy of the original challenge, the response, and any additional information the appellant believes would assist the ARP in reaching its decision. The ARP shall respond within 90 days of receipt of the appeal. A negative decision by the ARP may be appealed to the Interagency Security Classification Appeals Panel (ISCAP) referenced in section 5.3 of Executive Order 12958. If the Department fails to respond to a formal challenge within 120 days or if the ARP fails to respond to an appeal within 90 days, the challenge may be sent to the ISCAP.

§ 9.9 Declassification and downgrading.

(a) *Declassification processes.* Declassification of classified information may occur:

(1) After review of material in response to a Freedom of Information Act (FOIA)request, mandatory declassification review request, discovery request, subpoena, classification challenge, or other information access or declassification request;

(2) After review as part of the Department's systematic declassification review program;

(3) As a result of the elapse of the time or the occurrence of the event specified at the time of classification;

(4) By operation of the automatic declassification provisions of section 3.3 of the Executive Order with respect to material more than 25 years old.

(b) *Downgrading.* When material classified at the Top Secret level is reviewed for declassification and it is determined that classification continues to be warranted, a determination shall be made whether downgrading to a lower level of classification is appropriate. If downgrading is determined to be warranted, the classification level of the material shall be changed to the appropriate lower level.

(c) *Authority to downgrade and declassify.*

(1) Classified information may be downgraded or declassified by the official who originally classified the information if that official is still serving in the same position, by a successor in that capacity, by a supervisory official of either, or by any other official specifically designated by the Secretary or the senior agency official.

(2) The Department shall maintain a record of Department officials specifically designated as declassification and downgrading authorities.

(d) *Declassification in the public interest.* Although information that continues to meet the classification criteria of the Executive Order or a predecessor order normally requires continued protection, in some exceptional cases the need to protect information may be outweighed by the public interest in disclosure of the information. When such a question arises, it shall be referred to the Secretary or the Senior Agency Official for decision on whether, as an exercise of discretion, the information should be declassified and disclosed. This provision does not amplify or modify the substantive criteria or procedures for classification or create any substantive or procedural right subject to judicial review.

(e) *Public dissemination of declassified information.* Declassification of information is not authorization for its public disclosure. Previously classified information that is declassified may be subject to withholding from public disclosure under the FOIA, the Privacy Act, and various statutory confidentiality provisions.

§ 9.10 Mandatory declassification review.

All requests to the Department by a member of the public, a government employee, or an agency to declassify and release information shall result in a prompt declassification review of the information in accordance with procedures set forth in 22 CFR 171.20–25. Mandatory declassification review requests should be directed to the Information and Privacy Coordinator, U.S. Department of State, SA–2, 515 22nd St., NW., Washington, DC 20522–6001.

§ 9.11 Systematic declassification review.

The Information and Privacy Coordinator shall be responsible for conducting a program for systematic declassification review of historically valuable records that were exempted from the automatic declassification provisions of section 3.3 of the Executive Order. The Information and Privacy Coordinator shall prioritize such review on the basis of researcher interest and the likelihood of declassification upon review.

§ 9.12 Access to classified information by historical researchers and certain former government personnel.

For Department procedures regarding the access to classified information by historical researchers and certain former government personnel, see Sec. 171.24 of this Title.

§ 9.13 Safeguarding.

Specific controls on the use, processing, storage, reproduction, and transmittal of classified information within the Department to provide protection for such information and to prevent access by unauthorized persons are contained in Volume 12 of the Department's Foreign Affairs Manual.

Dated: December 27, 2006.

Lee Lohman,

Deputy Assistant Secretary for Administration, Department of State.

[FR Doc. E6–22487 Filed 12–29–06; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 570

[Docket No. FR–5013–P–01]

[RIN 2506–AC19]

Community Development Block Grant Program; Small Cities Program; Proposed Rule

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend HUD's regulations governing the Community Development Block Grant (CDBG) program for non-entitlement areas in the state of Hawaii. Pursuant to statutory authority, the state of Hawaii has elected not to administer funds to units of general local governments located in non-entitlement areas within the state. The statute provides that if Hawaii opts to not assume responsibility for the program, then the Secretary of HUD will make grants to the units of general local government located in Hawaii's non-entitlement areas, employing the same distribution formula as was used under prior regulations. This proposed rule would modify HUD's regulations to clarify how the CDBG program will be implemented in the non-entitlement areas of Hawaii. HUD has also taken the opportunity afforded by this proposed rule to update and streamline the subpart F regulations, particularly with regard to the HUD-administered Small Cities program in New York, which awarded its last competitive grant in Fiscal Year (FY) 1999.

DATES: *Comments Due Date:* March 5, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Office of the General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0001. Communications should refer to the above docket number and title and should contain the information specified in the ''Request for Comments'' section.

Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* Web site can be viewed by other commenters and by members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title.

Public Inspection of Public Comments. All comments and communications submitted to HUD will be available, without charge, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). Individuals with hearing or speech impairments may access this telephone number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of all comments submitted are available for inspection and downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen Rhodeside, Senior Program Officer, State and Small Cities Division, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7184, Washington, DC 20410–7000; telephone (202) 708–1322 (this is not a toll-free number). Individuals with speech or hearing impairments may access this telephone number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The CDBG program is authorized under the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) (HCD Act). Under the CDBG program, HUD allocates funds by formula among eligible state and local governments for activities that principally benefit low- and moderate-income persons, aid in the elimination of slums or blighting conditions, or meet other community development needs having a particular urgency.

Section 106 of Title I of the HCD Act permits states to elect to assume administrative responsibility for the CDBG program for non-entitlement areas within their jurisdiction. The HCD Act defines a non-entitlement area as an area that is not a metropolitan city or part of an urban county and does not include federally or state-recognized Indian tribes. In the event that a state elects not to administer the CDBG program, Section 106 provides that HUD will administer the CDBG program for non-entitlement areas within the state. HUD's regulations at 24 CFR part 570, subpart F describe the policies and procedures for HUD's administration of the CDBG program in non-entitlement areas.

Section 218 of the Consolidated Appropriations Act, 2004, (Pub. L. 108–199, approved January 23, 2003) required that, by July 31, 2004, the state of Hawaii had to elect if it would distribute funds under section 106(d)(2) of the HCD Act to units of general local government located in its non-entitlement areas. On August 5, 2004, the Governor of Hawaii notified HUD that the state had elected not to take over the CDBG program in the non-entitlement areas within its jurisdiction. In accordance with the Consolidated Appropriations Act, 2004, the Secretary of HUD permanently assumed administrative responsibility for making grants to the units of general local government located in Hawaii's non-entitlement areas (Hawaii, Kauai, and Maui counties) for all future fiscal years, beginning in 2005.

Section 218 of the Consolidated Appropriations Act, 2004, requires the Secretary of HUD to allocate CDBG funds to the units of local government located in Hawaii's non-entitlement areas based upon the same distribution formula currently used to compute their grant funds. The formula takes into consideration population, poverty, and housing overcrowding in these areas. HUD uses the factors to compute a weighted ratio (the extent of poverty is accorded twice as much significance as the population and housing overcrowding factors), which then determines the allocation of funds.

II. This Proposed Rule

This proposed rule would implement section 218 of the Consolidated Appropriations Act, 2004, by amending HUD's regulations at 24 CFR part 570 to

set forth the policies and procedures applicable to grants for non-entitlement areas in states that have not elected to administer the CDBG program. On December 27, 1994, the Hawaii Small Cities regulations were amended, by a final rule (59 FR 66594) that became effective on January 26, 1995, to treat the three non-entitlement counties of Hawaii similar to entitlement grantees, to the greatest extent allowable under statute. As a result, the regulatory changes that are being made in this proposed rule are relatively minor in scope, and are described below.

HUD has also taken the opportunity afforded by this proposed rule to update and streamline the subpart F regulations, particularly with regard to the HUD-administered Small Cities program in New York. The final competitive grants made under this program were awarded in FY 1999, and almost all New York Small Cities projects expended their funds by the close of FY 2006. The subpart F regulations contain outdated provisions regarding the New York Small Cities program that are no longer necessary and, therefore, would be removed by this rule. These regulatory changes are also described below.

A. Proposed Revisions to 24 CFR Part 570, Subpart F

Title of Subpart F. In order to clarify and differentiate the programs contained within the regulations, the title of subpart F would be amended to read, ''Small Cities, Non-entitlement CDBG Grants in Hawaii and Insular Areas.''

Section 570.420. Since the three Hawaii non-entitlement counties will be treated as entitlement grantees, § 570.420, which establishes the general requirements for HUD administration of non-entitlement grants, would be amended to remove all references to the HUD-administered small cities program in Hawaii. Section 570.420 will apply only to the Insular Areas program and the HUD-administered Small Cities program in New York for grants made prior to FY 2000. Section 570.420(c), which governs public notification requirements for competitive grants under the HUD-administered Small Cities program, would also be removed. This provision is obsolete, since the final award of such competitive grants were made in FY 1999.

Section 570.427. Amendments made to New York Small Cities projects that involve new activities or alteration of existing activities that will significantly change the scope, location, or objectives of approved activities or beneficiaries require HUD approval. Section 570.427(a) of the regulations would be amended to provide that HUD approval would be granted if the activity meets all of the applicable requirements of the regulations. As noted above, almost all of the New York Small Cities projects expended all of their funds by September 30, 2006. This regulatory change would allow HUD to approve amendments for post-closeout activities that will be funded with program income, without having to re-rank the amended project against the original Small Cities rating criteria. Since the original intent of the projects has already been completed, this amendment will allow units of general local government the flexibility to target projects funded with program income to the needs of their citizens, without burdening the Department to re-rate proposed program amendments against criteria that are no longer relevant.

Section 570.429. Section 570.429 governs the general requirements and grant requirements pertaining to the state of Hawaii. This section will be modified to reflect the changes required by section 218 of the Consolidated Appropriation Act, 2004. The proposed revisions also stress HUD's policy of treating the non-entitlement areas as entitlement areas to the greatest extent that is statutorily permissible.

Section 570.429(a) would be amended to state that the non-entitlement counties in Hawaii are to be treated as entitlement grantees, with the exception of: (1) How allocations are calculated, and (2) the source of their CDBG funding. Section 570.429(b) will be amended to state that the Hawaii non-entitlement counties will be governed by Subpart D of the part 570 regulations in the grant submission and approval process. (Subpart D establishes the policies and procedures governing entitlement grants.)

HUD proposes to remove § 570.429(d), entitled ''Adjustment to Grants.'' In keeping with the intent of the statutory change, grant adjustments for the non-entitlement counties in Hawaii will be handled under the procedures for entitlement grantees under 24 CFR part 570, subpart O (entitled, ''Performance Reviews''). HUD also proposes to remove the following paragraphs of § 570.429 as unnecessary due to the treatment of Hawaii's non-entitlement areas under the procedures governing entitlement grantees: Paragraph (f) (regarding required submissions), paragraph (g) (regarding application approval), paragraph (h) (regarding grant agreements), and paragraph (i) (regarding conditional grants).

Section 570.430. The regulation at § 570.430 establishes requirements for Hawaii program grants made prior to FY 1995. Because all of the funds for pre-1995 grants have been expended, this provision will be removed and the non-entitled counties will follow entitlement rules for the administration of their existing grants and all future grants.

Section 570.432. Section 570.432, which governs the use of Small Cities grants to repay Section 108 loans, will be removed because there will be no future competitively awarded Small Cities grants that can be used to pay Section 108 debt obligations. The non-entitlement counties in Hawaii will follow the requirements of Subpart M of the regulations with regard to repayment of Section 108 loan guarantees.

B. Other Proposed Regulatory Changes

Use of the term ''Non-entitlement CDBG Grants in Hawaii.'' The term ''Non-entitlement CDBG Grants in Hawaii'' has been inserted into various provisions of 24 CFR part 570 to refer to either the HUD-administered program or to the program's recipients. The provisions where the proposed term has either been substituted or added include §§ 570.200, 570.300, 570.429, and 570.902. By utilizing this term, HUD intends to avoid confusion with the competitively awarded HUD-administered Small Cities program, which made its last new grant in FY 1999, virtually all of which was expended by September 30, 2006, and which has operated only in New York state.

Section 570.208. Section 570.208, which describes the criteria for CDBG national objectives, would be revised to state that the three non-entitled Hawaii counties cannot use the exception criteria, since they do not meet the definition of a metropolitan city or urban county in Section 102(a) of the HCD Act.

Section 570.209. Section 570.209(b)(2)(i) will be revised to include non-entitlement CDBG grants in Hawaii. Non-entitlement CDBG grantees in Hawaii would now apply aggregate standards for evaluating public benefit to all applicable activities for which CDBG funds are obligated for each program year.

Section 570.300. (Section 570.300 will be revised to clarify that §§ 570.307 (Urban Counties) and 570.308 (Joint Requests) do not apply to non-entitlement CDBG grants in Hawaii.

Section 570.901. Section 570.901 will be revised to move the compliance requirements for non-entitlement CDBG grants in Hawaii from § 570.901(e) to § 570.901(d).

Section 570.902. Section 570.902 will be changed to treat non-entitlement CDBG grants in Hawaii in the same manner as entitlements in determining if activities are being implemented in a timely manner.

Section 570.911. Section 570.911 will be revised to treat non-entitlement CDBG grants in Hawaii in the same manner as entitlements with regard to grant reductions.

III. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this proposed rule under Executive Order 12866 (entitled ''Regulatory Planning and Review''). OMB determined that this rule is a ''significant regulatory action,'' as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). The docket file is available for public inspection between the hours of 8 a.m. and 5 p.m. in the Office of Regulations, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). Hearing- and speech-impaired persons may access the telephone number listed above via TTY by calling the Federal Information Relay Service at (800) 877–8339.

Information Collection Requirements

The information collection requirements contained in this proposed rule have been approved by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2506–0020. The amendments proposed by this rule do not revise the information collection requirements as originally approved by OMB. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This proposed rule does not impose any federal mandates on any state, local, or tribal government or the private sector within the meaning of UMRA.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the executive order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the executive order.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this proposed rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule only codifies, in HUD's regulations, procedures that will enable the Department to treat the three non-entitled Hawaii counties as entitlement grantees. Since the non-entitled counties previously were funded annually by formula and were treated as entitlement grantees as much as statutorily possible, the rule does not significantly differ from the current status in terms of the impact on the number of entities, the amount of funding, or the governing requirements applicable.

Notwithstanding HUD's determination that this rule will not have a significant economic impact on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the finding must be scheduled by calling the Regulations Divisions at (202) 708–3055 (this is not a toll-free number). Hearing- and speech-impaired persons may access the telephone number listed above via TTY by calling the Federal Information Relay Service at (800) 877–8339.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the CDBG Small Cities program is 14.219, and the number for the CDBG Entitlement program is 14.218.

List of Subjects in 24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Lead poisoning, Loan programs—housing and community development, Low- and moderate-income housing, New communities, Northern Mariana Islands, Pacific Islands Trust Territory, Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid, Virgin Islands.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR parts 570 as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5301–5320.

2. Revise § 570.200(a)(3) introductory text to read as follows:

§ 570.200 General Policies.

(a) * * *

(3) *Compliance with the primary objective.* The primary objective of the Act is described in section 101(c) of the Act. Consistent with this objective, entitlement recipients, non-entitlement CDBG grantees in Hawaii, and recipients of insular area funds under section 106 of the Act must ensure that over a period of time specified in their certification not to exceed three years, not less than 70 percent of the aggregate of CDBG fund expenditures shall be for activities meeting the criteria under § 570.208(a) or under § 570.208(d)(5) or (6) for benefiting low- and moderate-income persons. For grants under section 107 of the Act, insular area recipients must meet this requirement

for each separate grant. See § 570.420(d)(3) for additional discussion of the primary objective requirement for insular areas funded under section 106 of the Act. The requirements for the HUD-administered Small Cities program in New York are at § 570.420(d)(2). In determining the percentage of funds expended for such activities:

* * * * *

3. Revise § 570.208(a)(1)(ii) introductory text to read as follows:

§ 570.208 Criteria for national objectives.

* * * * *

(a) * * *

(1) * * *

(ii) For metropolitan cities and urban counties, an activity that would otherwise qualify under § 570.208(a)(1)(i), except that the area served contains less than 51 percent low- and moderate-income residents, will also be considered to meet the objective of benefiting low- and moderate-income persons where the proportion of such persons in the area is within the highest quartile of all areas in the recipient's jurisdiction in terms of the degree of concentration of such persons. This exception is inapplicable to non-entitlement CDBG grants in Hawaii. In applying this exception, HUD will determine the lowest proportion a recipient may use to qualify an area for this purpose, as follows:

* * * * *

4. § 570.209(b)(2)(i) is to be revised to read as follows:

§ 570.209 Guidelines for evaluating and selecting economic development projects.

* * * * *

(b) * * *

(2) *Applying the aggregate standards.* (i) A metropolitan city, an urban county, or a non-entitlement CDBG grantee in Hawaii shall apply the aggregate standards under paragraph (b)(1) of this section to all applicable activities for which CDBG funds are first obligated within each single CDBG program year, without regard to the source year of the funds used for the activities. A grantee under the HUD-administered Small Cities or Insular Areas CDBG programs shall apply the aggregate standards under paragraph (b)(1) of this section to all funds obligated for applicable activities from a given grant; program income obligated for applicable activities will, for these purposes, be aggregated with the most recent open grant. For any time period in which a community has no open HUD-administered or Insular Areas grants, the aggregate standards shall be applied to all applicable activities for which program income is obligated during that period.

* * * * *

5. Revise § 570.300 to read as follows:

§ 570.300 General.

This subpart describes the policies and procedures governing the making of community development block grants to entitlement communities and to non-entitlement counties in the state of Hawaii. The policies and procedures set forth in subparts A, C, J, K, and O of this part also apply to entitlement grantees and to non-entitlement grantees in the state of Hawaii. Sections 570.307 and 570.308 of this subpart do not apply to the Hawaii non-entitlement grantees.

6. Revise the heading of Subpart F to read as follows:

Subpart F—Small Cities, Non-Entitlement CDBG Grants in Hawaii and Insular Areas Programs

7. In § 570.420:

a. Revise paragraphs (a)(1) and (b)(1);

b. Remove § 570.420(c);

c. Redesignate paragraphs (d), (e), and (f) as paragraphs §§ 570.420 (c), (d), and (e), respectively; and

d. Revise the newly designated paragraph (e) to read as follows:

§ 570.420 General.

(a) *Administration of Non-entitlement CDBG funds by HUD or Insular Areas*—(1) *Small cities.* The Act permits each state to elect to administer all aspects of the CDBG program annual fund allocation for the non-entitlement areas within its jurisdiction. All states except Hawaii have elected to administer the CDBG program for non-entitlement areas within their jurisdiction. This section is applicable to active HUD-administered small cities grants in New York. The requirements for the non-entitlement CDBG grants in Hawaii are set forth in § 570.429 of this subpart. States that elected to administer the program after the close of Fiscal Year 1984 cannot return administration of the program to HUD. A decision by a state to discontinue administration of the program would result in the loss of CDBG funds for non-entitlement areas in that state and the reallocation of those funds to all states in the succeeding fiscal year.

* * * * *

(b) *Scope and applicability.* (1) This subpart describes the policies and procedures of the Small Cities program that apply to non-entitlement areas in states where HUD administers the CDBG program. HUD currently administers the Small Cities program in only two states—New York (for grants prior to FY 2000) and Hawaii. The Small Cities portion of this subpart addresses the requirements for New York Small Cities grants in §§ 570.421, 570.426, 570.427, and 570.431. Section 570.429 identifies special procedures applicable to Hawaii.

* * * * *

(e) *Allocation of funds*—The allocation of appropriated funds for insular areas under section 106 of the Act shall be governed by the policies and procedures described in section 106(a)(2) of the Act and §§ 570.440 and 570.441 of this subpart. The annual appropriations described in this section shall be distributed to insular areas on the basis of the ratio of the population of each insular area to the population of all insular areas.

8. Revise § 570.427(a) to read as follows:

§ 570.427 Program Amendments.

(a) *HUD approval of certain program amendments.* Grantees shall request prior HUD approval for all program amendments involving new activities or alteration of existing activities that will significantly change the scope, location, or objectives of the approved activities or beneficiaries. Approval is subject to the amended activities meeting the requirements of this part, and being able to be completed promptly.

* * * * *

9. In § 570.429:

a. Revise paragraphs (a) and (b);

b. Remove paragraphs (d), (f), (g), (h), and (i);

c. Redesignate paragraph (e) as a new paragraph (d); and

d. Revise newly designated paragraph (d) to read as follows:

§ 570.429 Hawaii general and grant requirements.

(a) *General.* This section applies to non-entitlement CDBG grants in Hawaii. The non-entitlement counties in the state of Hawaii will be treated as entitlement grantees except for the calculation of allocations, and the source of their funding, which will be from Section 106(d) of the Act.

(b) *Scope and applicability.* Except as modified or limited under the provisions thereof or this subpart, the policies and procedures outlined in subparts A, C, D, J, K, and O of this part apply to non-entitlement CDBG grants in Hawaii.

* * * * *

(d) *Reallocation.* (1) Any amounts that become available as a result of any reductions under subpart O of this part shall be reallocated in the same or future fiscal year to any remaining eligible applicants on a pro rata basis.

(2) Any formula grant amounts reserved for an applicant that chooses not to submit an application shall be reallocated to any remaining eligible applicants on a pro rata basis.

(3) No amounts shall be reallocated under paragraph (d) of this section in any fiscal year to any applicant whose grant amount was reduced under subpart O of this part.

§§ 570.430 and 570.432 [Removed]

10. Remove §§ 570.430 and 570.432.

11. In § 570.901, revise paragraphs (d) and (e) to read as follows:

§ 570.901 Review for compliance with the primary and national objectives and other program requirements.

* * * * *

(d) For entitlement grants and non-entitlement CDBG grants in Hawaii, the submission requirements of 24 CFR part 91 and the displacement policy requirements at § 570.606;

(e) For HUD-administered Small Cities grants in New York, the citizen participation requirements at § 570.431, the amendment requirements at § 570.427, and the displacement policy requirements of § 570.606;

* * * * *

12. In § 570.902:

a. Revise the heading of paragraph (a);

b. Revise the introductory paragraph of paragraph (a)(1); and

c. Revise paragraph (b) to read as follows:

§ 570.902 Review to determine if CDBG—funded activities are being carried out in a timely manner.

* * * * *

(a) *Entitlement recipients and Non-entitlement CDBG Grantees in Hawaii.* (1) Before the funding of the next annual grant and absent contrary evidence satisfactory to HUD, HUD will consider an entitlement recipient or a non-entitlement CDBG grantee in Hawaii to be failing to carry out its CDBG activities in a timely manner if:

* * * * *

(b) *HUD-administered Small Cities program in New York.* The Department will, absent substantial evidence to the contrary, deem a HUD-administered Small Cities recipient in New York to be carrying out its CDBG-funded activities in a timely manner if the schedule for carrying out its activities, as contained in the approved application (including any subsequent amendment(s), is being substantially met.

13. Revise § 570.911(b) to read as follows:

§ 570.911 Reduction, withdrawal, or adjustment of a grant or other appropriate action.

* * * * *

(b) *Entitlement grants and Non-entitlement CDBG Grantees in Hawaii.* Consistent with the procedures described in § 570.900(b), the Secretary may make a reduction in the CDBG grant amount either for the succeeding program year or, if the grant had been conditioned, up to the amount that had been conditioned. The amount of the reduction shall be based on the severity of the deficiency and may be for the entire grant amount.

* * * * *

Dated: November 13, 2006.

Nelson R. Bregón,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. E6–22502 Filed 12–29–06; 8:45 am]

BILLING CODE 4210–67–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2005–CA–0011, FRL–8259–8]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP). These revisions concern the permitting of air pollution sources. We are proposing to approve local rules under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by February 2, 2007.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2005–CA–0011, by one of the following methods

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
- *E-mail: R9airpermits@epa.gov.*
- *Mail or deliver:* Gerardo Rios (Air-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or e-mail. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Manny Aquitania, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 972–3977, *aquitania.manny@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the approval of local ICAPCD Rules 201, 203, 205, 206, and 208. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this direct final rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is

planned. For further information, please see the direct final action.

Dated: November 30, 2006.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. E6–22422 Filed 12–29–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2005–TN–0009, EPA–R04–OAR–2006–0471, EPA–R04–OAR–2006–0532, 200614(b); FRL–8265–7]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions To the Knox County Portion of the Tennessee State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation, on December 21, 1999, March 15, 2000, and January 12, 2001. The revisions pertain to the Knox County portion of the Tennessee SIP and include changes to the Knox County Air Quality Regulations Section 13.0—''Definitions'' and Section 22.0—''Regulation of Fugitive Dust and Materials.'' These revisions are part of Knox County's strategy to attain and maintain the national ambient air quality standards, and are considered by the TDEC to be at least as stringent as the State's requirements. This action is being taken pursuant to section 110 of the Clean Air Act.

In the Final Rules Section of this **Federal Register**, EPA is approving the Tennessee SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before February 2, 2007.

ADDRESSES: Submit your comments, identified by Docket ID Nos. EPA–R04–OAR–2005–TN–0009, EPA–R04–OAR–2006–0471, and EPA–R04–OAR–2006–0532, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: louis.egide@epa.gov.*

3. *Fax:* (404) 562–9019.

4. *Mail:* ''EPA–R04–OAR–2004–TN–0004,'' ''EPA–R04–OAR–2005–TN–0009,'' or ''EPA–R04–OAR–2006–0532,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Dr. Egide Louis, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Dr. Egide Louis, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9240. Dr. Louis can also be reached via electronic mail at *louis.egide@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: December 20, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. E6–22481 Filed 12–29–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2004–TN–0004, EPA–R04–OAR–2005–TN–0009, EPA–R04–OAR–2006–0532, 200607/17(b); FRL–8265–5]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions to the Knox County Portion of the Tennessee State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve several revisions to the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation, on March 16, 2000, July 23, 2002, December 10, 2004, and January 31, 2006. The revisions pertain to the Knox County portion of the Tennessee SIP and include changes to Knox County Air Quality Regulations Section 16.0—Open Burning, Section 25.0—Permits, and Section 46.0—Regulation of Volatile Organic Compounds. EPA is not taking any action at this time on Section 13.0—Definitions (part of the December 10, 2004, submittal) and Section 16.4.D., which was part of the January 31, 2006, submittal but subsequently withdrawn by Knox County. The SIP revisions described above are part of Knox County's strategy to attain and maintain the national ambient air quality standards. This action is being taken pursuant to the Clean Air Act. In the Final Rules Section of this **Federal Register**, EPA is approving revisions to the Tennessee SIP for these Tennessee SIP submittals as a direct final rule without prior proposal because the Agency views these as a noncontroversial submittals, and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before February 2, 2007.

ADDRESSES: Submit your comments, identified by Docket ID Nos. EPA–R04–OAR–2004–TN–0004, EPA–R04–OAR–2005–TN–0009, and EPA–R04–OAR–2006–0532 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: louis.egide@epa.gov* or *hou.james@epa.gov.*

3. *Fax:* (404) 562–9019.

4. *Mail:* ''EPA–R04–OAR–2004–TN–0004,'' ''EPA–R04–OAR–2005–TN–0009,'' or ''EPA–R04–OAR–2006–0532,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Egide Louis or James Hou, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's official hours of business. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Egide Louis or James Hou, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Dr. Louis can be reached by telephone at (404) 562–9240 or via electronic mail at *louis.egide@epa.gov.* The telephone number for Mr. Hou is (404) 562–8965. He can also be reached via electronic mail at *hou.james@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: December 20, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. E6–22474 Filed 12–29–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–0904; FRL–8264–9]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; PM–10 Test Methods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Maryland for the purpose of incorporation by reference of EPA approved test methods for stack testing for particulate matter with a particle size of 10 microns or less (PM–10). In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by February 2, 2007.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–EPA–R03–OAR–2006–0904 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: miller.linda@epa.gov.*

C. *Mail:* EPA–R03–OAR–2006–0904, Linda Miller, Acting Chief, Air Quality Planning and Analysis Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2006–0904. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The*www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov index.* Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland, 21230.

FOR FURTHER INFORMATION CONTACT: Linda Miller, (215) 814–2068, or by e-mail at *miller.linda@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information on this action to approve incorporation by reference of test methods for PM–10 into the Maryland SIP, please see the information provided in the direct final

action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: December 18, 2006.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E6–22415 Filed 12–29–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2004–0094; FRL–8263–3]

RIN 2060–AM75

National Emission Standards for Hazardous Air Pollutants: General Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing amendments to the General Provisions to the national emission standards for hazardous air pollutants (NESHAP). The proposed amendments would replace the policy described in the May 16, 1995 EPA memorandum entitled, ''Potential to Emit for MACT Standards—Guidance on Timing Issues,'' from John Seitz, Director, Office of Air Quality Planning and Standards (OAQPS), to EPA Regional Air Division Directors. The proposed amendments provide that a major source may become an area source at any time by limiting its potential to emit hazardous air pollutants (HAP) to below the major source thresholds of 10 tons per year (tpy) of any single HAP or 25 tpy of any combination of HAP. Thus, under the proposed amendments, a major source can become an area source at any time, including after the first substantive compliance date of an applicable MACT standard so long as it limits its potential to emit to below the major source thresholds. We are also proposing to revise tables in numerous MACT standards that specify the applicability of General Provisions requirements to account for the regulatory provisions we are proposing to add through this notice.

DATES: *Comments.* Written comments must be received on or before March 5, 2007.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by January 23, 2007, a public hearing will be held on February 2, 2007. Persons interested in attending the public hearing should contact Ms. Lala Alston at (919) 541–5545 to verify that a hearing will be held.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2004–0094, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov*, Attention Docket ID No. EPA–HQ–OAR–2004–0094.
- *Facsimile:* (202) 566–1741, Attention Docket ID No. EPA–HQ–OAR–2004–0094.
- *Mail:* U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Ave., NW., Room: 3334, Mail Code: 6102T, Washington, DC 20460, Attention E-Docket ID No. EPA–HQ–OAR–2004–0094.
- *Hand Delivery:* Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Ave., NW., Room: 3334, Mail Code: 6102T, Washington, DC, 20460, Attention Docket ID No. EPA–HQ–OAR–2004–0094. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2004–0094. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov, or e-mail. Send or deliver information identified as CBI only to the following address: Mr. Roberto Morales, OAQPS Document Control Officer, U.S. EPA (C404–02), Attention Docket ID No. EPA–HQ–OAR–2004–0094, Research Triangle Park, NC 27711. Clearly mark the part or all of the information that you claim to be CBI. The www.regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the index. Although listed in the *www.regulations.gov* index, some information is not publicly available, (i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

Note: The EPA Docket Center suffered damage due to flooding during the last week of June 2006. The Docket Center is continuing to operate. However, during the cleanup, there will be temporary changes to Docket Center telephone numbers, addresses, and hours of operation for people who wish to make hand deliveries or visit the Public Reading Room to view documents. Consult EPA's **Federal Register** notice at 71 FR 38147 (July 5, 2006) or the EPA Web site at *http://www.epa.gov/epahome/dockets.htm* for current information on docket operations, locations and telephone numbers. The Docket Center's mailing address for U.S. mail and the procedure for submitting comments to *www.regulations.gov* are not affected by the flooding and will remain the same.

Public Hearing. If a public hearing is held, it will be held at the EPA facility complex in Research Triangle Park, NC or an alternate site nearby.

FOR FURTHER INFORMATION CONTACT: Rick Colyer, Program Design Group (D205–02), Sector Policies and Programs Division, Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–5262, electronic mail (e-mail) address, *colyer.rick@epa.gov.*

SUPPLEMENTARY INFORMATION:

Regulated Entities. Categories and entities potentially regulated by this action include all major sources regulated under section 112 of the CAA.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's proposal will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action will be posted on the TTN's policy and guidance page for newly proposed rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control.

Outline

The information presented in this preamble is organized as follows:

I. Summary of Proposed Action

Today's proposed amendments would replace an existing EPA policy established in a May 16, 1995, EPA memorandum entitled ''Potential to Emit for MACT Standards-Guidance on Timing Issues.'' *See* ''Potential to Emit for MACT Standards-Guidance on Timing Issues,'' from John Seitz, Director, Office of Air Quality Planning and Standards, to EPA Regional Air Division Directors. The 1995 policy provides that a major source may become an area source by limiting its potential to emit (PTE) HAP emissions to below major source levels (10 tpy or more of any individual HAP or 25 tpy or more of any combination of HAP), no later than the source's first substantive compliance date under an applicable NESHAP (also known as a MACT standard). Thus, under the 1995 policy, a source that limits its PTE and thereby attains area source designation by the first compliance date of the MACT is not subject to major source requirements. By contrast, a source that does not have a PTE limit in place by the first substantive compliance date would be subject to major source MACT, regardless of its subsequent HAP emissions. The 1995 policy is generally referred to as EPA's ''once in, always in'' (OIAI) policy for MACT standards.

The regulatory amendments proposed today, if finalized, would replace the 1995 OIAI policy and allow a major source of HAP emissions to become an area source at any time by limiting its PTE for HAP to below the major source thresholds.

II. Background

Section 112 of the CAA distinguishes between ''major'' and ''area'' sources of HAP. A major source of HAP is defined as ''* * * any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tpy or more of any hazardous air pollutant or 25 tpy or more of any combination of hazardous air pollutants.'' (section 112(a)(1)). An area source is defined as any stationary source of HAP that is not a major source. (section 112(a)(2)). ''Hazardous air pollutant'' is defined as ''* * * any air pollutant listed pursuant to subsection (b)'' of section 112. (section 112(a)(6)).

''Potential to emit'' is currently defined in the NESHAP General Provisions as ''* * * the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable.'' (40 CFR 63.2).[1]

The CAA treats the regulation of major sources and area sources differently. Generally, major source categories are listed under section 112(c)(1), while area source categories are listed under section 112(c)(3) following a finding that either the source category presents a threat of adverse human health or environmental effects that warrants regulation under section 112, or the category falls within the purview of CAA section 112(k)(3)(B). See CAA section 112(c)(1) and (3). Standards for major sources are based on the performance of the maximum achievable control technology (MACT) currently employed by the best controlled sources in the industry. Standards for area sources may be based on MACT, but alternatively may be based on generally available control technology (GACT) or generally available management practices that reduce HAP emissions. See CAA section 112(d)(2) and (5).

Major sources can achieve significant HAP emission reductions and emit at levels below the major source thresholds through a variety of mechanisms. In order to be recognized as an area source and thereby avoid the application of major source MACT requirements, however, a major source must limit its potential to emit HAP to ensure that its emissions remain below major source thresholds. See CAA section 112(a)(1) (defining major source HAP thresholds); 40 CFR 63.2 (same).

A significant question that arose early in the development of the MACT program was when major sources may limit their PTE to below the major source thresholds in order to avoid having to comply with major source MACT standards. The EPA issued

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[1] As explained further below, in *National Mining Association* v. *EPA,* 59 F. 3d 1351(D.C. Cir. 1995) (*NMA*), the D.C Circuit remanded the definition of ''potential to emit'' found in 40 CFR 63.2 to the extent it required that physical or operational limits be ''federally enforceable.'' The court did not vacate the rule during the remand. Two additional cases were decided after *National Mining.* In *Chemical Manufacturers Ass'n* v. *EPA, (CMA)* No. 89–1514, 1995 WL 650098 (D.C. Cir. Sept. 15, 1995), the court, in light of *National Mining,* vacated and remanded to EPA the federal enforceability component in the potential to emit definition in the PSD and NSR (40 CFR parts 51 and 52) regulations. In *Clean Air Implementation Project* v. *EPA,* No. 96–1224 1996 WL 393118 (D.C. Cir. June 28, 1996) (*CAIP*), the court vacated and remanded the federal enforceability requirement in the title V (40 CFR part 70) regulations. The *CMA* and the *CAIP* orders were similar in that they contained no independent legal analysis, but rather relied on the *National Mining* decision.

Before any of the above cases were decided, EPA implemented a ''transitional'' policy to allow sources to rely on state-only enforceable PTE limits. ''Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act)'' (Jan. 25, 1995), available at *http://www.epa.gov/Region7/programs/artd/air/title5/t5memos/ptememo.pdf.* After the court decisions, EPA extended the transition policy several times. See ''Third Extension of January 25, 1995 Potential to Emit Transition Policy'' (December 20, 1999), available at *http://www.epa.gov/Region7/programs/artd/air/title5/t5memos/4thext.pdf.* Under the Third Extension, sources can rely on state-only enforceable PTE limits until we finalize our response to the remands. EPA intends to issue a proposed PTE rule in the near future.

guidance on this and related issues on May 16, 1995, in a memorandum from John Seitz, Director of the Office of Air Quality Planning and Standards, to the EPA regional air division directors. The May 1995 memorandum addressed three issues:

- ''By what date must a facility limit its potential to emit if it wishes to avoid major source requirements of a MACT standard?''
- ''Is a facility that is required to comply with a MACT standard permanently subject to that standard?''
- ''In the case of facilities with two or more sources in different source categories: If such a facility is a major source for purposes of one MACT standard, is the facility necessarily a major source for purposes of subsequently promulgated MACT standards?''

In the May 1995 memorandum, EPA took the policy position that the latest date by which a source could obtain area source status by limiting its HAP PTE would be the first substantive compliance date of an applicable MACT standard. For existing sources, this would be no later than 3 years after the effective date of the regulation (which for MACT standards is the date of publication in the **Federal Register**), but could be sooner; for example, some standards for leaking equipment require compliance no later than 6 months after the effective date of the regulation.

Furthermore, in the May 16, 1995, memorandum, EPA stated that once a source was required to comply with a MACT standard, i.e., once the first substantive compliance date had passed without the source limiting its PTE, it must always comply, even though compliance with the standard may reduce HAP emissions from the source to below major source thresholds.

Finally, the May 16, 1995 memorandum provided that a source that is major for one MACT standard would not be considered major for a subsequent MACT standard if the potential to emit HAP emissions were reduced to below major source levels by complying with the first MACT standard.

The 1995 memorandum, on which we did not seek notice and comment, set forth transitional policy guidance and was intended to remain in effect only until such time as the Agency proposed and promulgated amendments to the Part 63 General Provisions. We are today proposing to amend the General Provisions and replace the 1995 policy memorandum.

III. Rationale for the Proposed Amendments

A. Why Is EPA Proposing These Amendments?

EPA issued the May 1995 memorandum in an effort to provide answers to pressing questions raised shortly after the inception of the air toxics program. Since issuance of the memorandum, EPA has received questions concerning the OIAI policy and recommendations to revise the policy.

In August 2000, EPA met with representatives of the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials (STAPPA/ALAPCO) to explore ways to revise the OIAI policy to promote pollution prevention (P2). The STAPPA/ALAPCO stated its belief that the OIAI policy provides no incentive for sources, after the first substantive compliance date of a MACT standard, to implement P2 measures in order to reduce their emissions to below major source thresholds because there are no benefits to be gained, e.g., no reduced monitoring, recordkeeping, and reporting, and no opportunity to get out of major source requirements. In light of these concerns, the STAPPA/ALAPCO recommended that the Agency revise the OIAI policy to encourage P2. To accommodate some of these P2 concerns, in May 2003 we proposed to amend the part 63 General Provisions (68 FR 26249; May 15, 2003) in the following ways. First, the proposed amendments encourage P2 by allowing an affected source that completely eliminates all HAP emissions after the first compliance date of the MACT standard to submit a request to the Administrator that it no longer be subject to the MACT standard. If the request is approved, the affected source would no longer be subject to the MACT standard provided the source does not resume emitting HAP from the regulated source(s) of emissions. Second, the proposed amendments encourage P2 by allowing an affected source that uses P2 to reduce HAP emissions to the level required by the MACT standard, or below, to request ''P2 alternative compliance requirements,'' which could include alternative monitoring, recordkeeping and reporting. If the request is approved, the alternative compliance requirements would replace the compliance requirements in the MACT standard.

It is important to understand the differences in applicability between the P2 amendments, and OIAI and today's proposal revising that policy. The proposed P2 amendments are targeted at the ''affected source'' as that term is defined in 40 CFR 63.2. ''Affected source'' describes the collection of regulated emission points defined as the entity subject to a specific MACT standard. See 40 CFR 63.2. For example, an affected source could be a single production unit or the combination of all production units within a single contiguous area and under common control, or a single emission point or a collection of many related emission points within a single contiguous area and under common control. Each MACT standard defines the ''affected source'' for regulation.

By contrast, the 1995 OIAI policy and today's proposed amendments that seek to replace that policy focus on ''major sources,'' as defined in 40 CFR 63.2. As explained above, major sources are defined by the total amount of HAP emitted from a stationary source or group of stationary sources located within a contiguous area and under common control. See 40 CFR 63.2. A major source can include several different affected sources subject to multiple MACT standards.

The relationship between the proposed P2 amendments and today's proposal is best illustrated by the following example. Consider a major source that emits 50 tpy total HAP which is comprised of 5 affected sources subject to various MACT. If the Agency finalizes the P2 amendments and one of the affected sources that emitted 15 tpy of HAP eliminated all its HAP emissions, the affected source, if its request is approved by the permitting authority, would no longer be subject to MACT. However, the other four affected sources within the major source would still be subject to their respective MACT because the sources' combined emissions would be 35 tpy, which exceeds the major source threshold. We are considering the comments received on the proposed P2 amendments and have not yet taken any final action with regard to that proposal.

In addition to the feedback from STAPPA concerning the OIAI policy, EPA has heard from others who have taken the position that the OIAI policy serves as a disincentive for sources to reduce emissions of HAP beyond the levels actually required by an applicable standard. For example, one source whose emissions after applying MACT were still above major source thresholds has significant emissions of one HAP for which the MACT standard does not require reductions. The source has indicated it is willing to substantially reduce that HAP to achieve area source status, but would not do so as long as

the OIAI policy applied and the source could not be redesignated as an area source. Another source, which has maintained actual HAP emissions well below major source levels, discovered its PTE limit (designating it as an area source) was based on an erroneous emission factor. Even though actual emissions have always been below major source levels, its PTE, when recalculated using the correct emission factors, exceeded the major source threshold. In this example, the source did not realize its problem until after the first substantive compliance date, which meant that, under the OIAI policy, the source was subject to the MACT standard.

Moreover, the OIAI policy, as written, does not encourage sources to explore the use of different control techniques, P2, or new and emerging technologies that would result in lower emissions. Thus, under OIAI, the same source could be subject to substantially different requirements based solely on the date by which the source reduced its potential to emit HAP to below the major source thresholds. For example, under OIAI, a major source that is subject to a MACT standard may become an area source prior to the first substantive compliance date of that standard, without reaching MACT levels of emissions reductions. As a result, prior to the first substantive compliance date of a MACT standard, a source emitting 30 tpy of a combination of HAP could reduce emissions by 10 tpy, take a HAP PTE limitation at 20 tpy, emit less than 10 tpy of any one HAP, and become an area source. Such a source would no longer meet the applicability criteria of a potentially applicable major source MACT standard and would, therefore, not be required to comply with that standard. By contrast, if the same source reduced its emissions of HAP to 20 tpy (and didn't emit 10 tpy or more of any single HAP) by complying with an applicable major source MACT standard after the first substantive compliance date of the standard, it would have to continue to comply with the requirements of the major source MACT standard because the first substantive compliance date had passed. The only difference in these two situations is the date on which the source reduced its emissions. As explained below, there is nothing in the CAA that compels the conclusion that a source cannot attain area source status after the first substantive compliance date of a MACT standard.

B. What Is the Authority for This Action?

As noted above, Congress expressly defined the terms ''major source'' and ''area source'' in section 112(a). A ''major source'' is a source that ''emits or has the potential to emit considering controls, in the aggregate,'' 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAP, and an ''area source'' is any stationary source that is not a ''major source.'' CAA section 112(a)(1) and (a)(2).[2] Notably absent from these definitions is any reference to the compliance date of a MACT standard. Rather, Congress defined major source by reference to the amount of HAP the source ''emits *or has the potential to emit considering controls*,'' and required EPA to determine whether that amount exceeds certain specified levels. 42 U.S.C. 112(a)(1) (emphasis added). Congress placed no temporal limitations on the determination of whether a source emits or has the potential to emit HAP in sufficient quantity to qualify as a major source.

In March 1994, EPA issued final regulations interpreting the term ''major source.'' See 59 FR 12408 (March 16, 1994) (the General Provisions governing the section 112 program).[3] The regulatory definition of ''major source'' is virtually identical to the statutory definition. Specifically, EPA defined ''major source'' as ''any stationary source or group of stationary sources * * * that emits *or has the potential to emit considering controls*'' at or above major source thresholds. 40 CFR 63.2. EPA, in turn, defined the phrase ''potential to emit'' that appears in the definition of ''major source,'' as the ''maximum capacity of a stationary source to emit a pollutant under its physical and operational design.'' *Id.* To give effect to the phrase ''considering controls'' in the statutory definition of ''major source,'' (CAA section 112(a)(1)), EPA further defined the term ''potential to emit'' in its regulations as follows:

> Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable.

40 CFR 63.2.

The Court of Appeals for the District of Columbia Circuit reviewed EPA's definition of ''potential to emit'' and, in July 1995, remanded the definition to EPA to the extent the definition required that physical or operational limitations be ''federally enforceable.'' *National Mining Ass'n* v. *EPA*, 59 F.3d 1351 (D.C. Cir. 1995).[4] In remanding the rule, the D.C. Circuit held that ''EPA has not explained * * * how its refusal to consider limitations other than those that are 'federally enforceable' serves the statute's directive to 'consider[] controls' when it results in a refusal to credit controls imposed by a state or locality even if they are unquestionably effective.'' *Id.* at 1363. The court also noted that ''[i]t is not apparent why a state's or locality's controls, when demonstrably effective, should not be credited in determining whether a source subject to those controls should be classified as a major or area source.'' *Id.; see also id.* at 1365 (''By no means does that suggest that Congress necessarily intended for state emissions controls to be disregarded in determining whether a source is classified as a 'major' or 'area' source.'').

As noted above, EPA is in the process of developing a proposed PTE rule that responds to the Court's remand in *NMA* and, among other things, proposes amendments to the definition of PTE in 40 CFR part 63. EPA anticipates issuing the proposed rule in the near future. See n.1.

Today's proposed rule is wholly consistent with the plain language of section 112(a)(1). Specifically, under today's proposed regulations, any source with a PTE limit that limits HAP emissions to less than the major source thresholds is, by definition, not a ''major source'' because its *''potential to emit considering controls''* is less than the identified major source thresholds. 42 U.S.C. 7412(a)(1) (emphasis added). By

[2] In addition to ''major sources'' and ''area sources,'' Congress identified a third type of source under section 112: electric utility steam generating units (''Utility Units''). See section 112(a)(8). Congress created a special statutory provision for Utility Units in section 112(n)(1)(A). Discussion of that provision is not relevant to this proposal. Today's proposal focuses solely on ''major sources'' and ''area sources.'' See CAA 112(a)(1), 112(a)(2).

[3] The General Provisions in 40 CFR Part 63 eliminate the repetition of general information and requirements in individual NESHAP subparts by consolidating all generally applicable information in one location. The General Provisions include sections on applicability, definitions, compliance dates, and monitoring, recordkeeping and reporting requirements, among others. In addition, the General Provisions include administrative sections concerning actions that the EPA Administrator must take, such as making determinations of applicability, reviewing applications for approval of new construction, responding to requests for extensions or waivers of applicable requirements, and generally enforcing NESHAP. The General Provisions apply to every facility that is subject to a NESHAP subpart, except where specifically overridden by that subpart.

[4] In that same opinion, the Court otherwise upheld EPA's definition of ''major source.''

contrast, under the 1995 policy memorandum, a source is treated as a major source in perpetuity even if sometime after the first compliance date of a MACT standard the source no longer meets the statutory definition of ''major source'' (i.e., the source has a ''potential to emit considering controls'' less than the major source thresholds). EPA believes that the approach proposed today gives full effect to the statutory definitions and to the distinctions that Congress created between ''major'' and ''area'' sources. *Id.* at 1353–54 (discussing differences in requirements affecting major and area sources and recognizing that Congress did not contemplate that all area sources be subject to regulation); *see also* 42 U.S.C. 7412(c)(3), 7412(k)(3)(B).

Moreover, nothing in the structure of the Act counsels against today's proposed approach. Congress defined major and area sources differently and established different requirements for such sources. *See NMA,* 59 F3d 1353–54. The 1995 policy memorandum creates a dividing line between major and area sources that does not exist on the face of the statute by including a temporal limitation on when a source can become an area source by limiting its PTE.

Furthermore, as noted in the May 1995 OIAI memorandum itself, EPA intended that the memorandum be a transitional policy which would remain in effect only until EPA undertook notice and comment rulemaking, which it is now doing. Nothing precludes the Agency from revising a prior agency position where, as here, we have a principled basis for doing so. As the Supreme Court recently observed:

> ''An initial agency interpretation is not instantly carved in stone. On the contrary, the agency * * * must consider varying interpretations and the wisdom of its policy on a continuing basis, *Chevron, supra* at 863–64, for example, in response to changed factual circumstances, or a change in administrations.''

National Cable & Telecomms. Ass'n v. *Brand X Internet Servs.,* 545 U.S. 967 (2005) (citations omitted); *see also American Trucking Ass'n* v. *Atchison, Topeka & Santa Fe Ry.,* 387 U.S. 397, 416 (1967); *Mobil Oil Corp.* v. *EPA,* 871 F.2d 149, 152 (D.C. Cir. 1989) (''an agency's reinterpretation of statutory language is nevertheless entitled to deference, so long as the agency acknowledges and explains the departure from its prior views''). We solicit comment on all aspects of today's proposal, including EPA's position that today's proposed approach gives proper effect to the statutory definitions in section 112(a) and is consistent with the language and structure of the Act.

C. What Are the Implications of This Proposed Action?

In the 1995 memorandum, EPA stated, as a matter of policy, that without the OIAI policy, facilities could backslide from MACT levels of control and increase their emissions to a level slightly below the major source thresholds. The 1995 memorandum further asserts that if this occurred, the ''maximum achievable emissions reductions that Congress mandated for major sources would not be achieved.'' We agree that Congress mandated that sources that meet the definition of ''major source'' in section 112(a) be required to comply with MACT, but a source that takes a PTE limit that limits its PTE to below the major source HAP thresholds does not, as explained above, meet the statutory definition of ''major source,'' and therefore should not be subject to the requirements applicable to a major source.

EPA recognizes that some sources in complying with an applicable MACT standard will reduce HAP emissions below the major source thresholds because that is the level of emissions necessary to maintain compliance with the MACT standard. If this rule is finalized, we believe it is unlikely that such sources would, in becoming area sources, increase their current emissions to a level just below the major source thresholds. While this may occur in some instances, it is more likely that sources will adopt PTE limitations at or near their current levels of emissions, which is the level needed to meet the MACT standard(s).[5] This conclusion is based on a number of factors.

First, many sources attaining area source status do so because of the control devices that they installed to meet the MACT standards. Such control systems are designed to operate a certain way and cannot be operated at a level which achieves only a partial emission reduction, *i.e.*, the devices either operate effectively or they do not. Thus, we expect that sources that have attained area source status by virtue of a particular control technology will maintain their current level of emissions.

Second, several additional programs have been implemented under the CAA since the issuance of the 1995 OIAI memorandum. Specifically, in many cases, sources will maintain the level of emission reduction associated with the MACT standard because that level is needed to comply with other requirements of the Act, such as RACT controls on emissions of volatile organic compounds, which are also HAP. Sources may also need to maintain their current level of control for other reasons, including, for example, for emissions netting and emissions trading purposes.

Third, if this rule is finalized, those sources that seek to maintain area source status will likely take PTE limits at or near their current MACT emission levels to ensure that their emissions remain below the major source thresholds. Sources have no incentive to establish their PTE limit too close to the major source thresholds because repeated or frequent exceedances above the PTE could provide the permitting authority reason to revoke the PTE and bring an enforcement action. 42 U.S.C. 7413(g); *see NMA,* 59 F.3d at 1363 n.20 (noting that a source that claims to have lowered its emissions to below major source thresholds, but has actual emissions that exceed such thresholds, can be subject to sanctions under CAA section 113).

Fourth, permitting authorities will likely encourage emission reduction maintenance and impose more stringent PTE terms and conditions on the source the closer the source's PTE is to the major source thresholds. Such terms and conditions may include shorter compliance periods and perhaps more robust monitoring, recordkeeping, and reporting to ensure that the source does not exceed its PTE.

Finally, many sources that take a PTE limitation to become an area source will ultimately be subject to area source standards issued pursuant to section 112. To date, EPA has issued emission standards for approximately 20 area source categories. Over the next three years, EPA is required to develop area source standards for approximately 50 additional categories. While the level at which those standards will be set is not known at this time, the standards will reflect at least generally available control technology and some may be set at MACT-based levels, which would mean that many sources could be required to maintain their current emission levels. *See, e.g.*, 42 U.S.C. 7412(d)(2), (d)(5), 7412(k)(3)(B).

For all of these reasons, we believe it is unlikely that a source that currently emits at a level below the major source

[5] We recognize that there may be instances where a source will emit at a level that is below the level required by the MACT. EPA cannot mandate that sources emit at such a level. Accordingly, in discussing potential emission increases as the result of today's proposal, we properly limit our discussion to those sources that emit below the major source thresholds because they must do so to meet the MACT standard, not those sources that, for other reasons, emit at a level below the level required by the MACT standard.

thresholds as the result of compliance with a MACT standard would increase its emissions in response to this rule. However, even if such increases occur, the increases will likely be offset by emission reductions at other sources that should occur as the result of this proposal. Specifically, this proposal provides an incentive for those sources that are currently emitting above major source thresholds and complying with MACT, to reduce their HAP emissions to below the major source thresholds.

We solicit comment on the issues discussed above. Please include with your comments any relevant factual information and describe the scenarios under which sources, in response to this proposal, would likely increase emissions from the level required by MACT to just below the major source thresholds.

D. What Regulatory Changes Are We Proposing?

For the reasons discussed above, we believe that the 1995 OIAI policy should be replaced and today are proposing to allow a major source to become an area source at any time by taking a PTE limit on its HAP emissions. Specifically, we are proposing to amend section 63.1 by adding a new paragraph (c)(6). That paragraph would specify that a major source may become an ''area source'' at any time by restricting its ''potential to emit'' (PTE) hazardous air pollutants, as that term is defined in 40 CFR Part 63, Subpart A, to below major source thresholds. [6] [7] If a source takes a PTE limit, it will no longer be subject to major source requirements that apply to HAP emissions, subject to certain restrictions described below. The major source requirements to which the source would no longer be subject, include, but are not limited to, compliance assurance monitoring and title V requirements (assuming the source is not otherwise subject to title V permitting). As an area source complying with its PTE limit, the source would nonetheless be subject to any applicable area source requirements issued pursuant to section 112, and title V if EPA has not exempted the area source category from such requirements.

There are two provisions of the current regulations that are relevant for background purposes: Sections 63.6(b)(7) and 63.6(c)(5). Section 63.6(b)(7) provides that when an area source becomes a major source ''by the addition of equipment or operations that meet the definition of new affected source in the relevant standard, the portion of the existing facility that is a new affected source must comply with all requirements of that standard applicable to *new sources*,'' and the source must comply with the relevant standard upon startup. 40 CFR 63.6(b)(7) (Emphasis added). Section 63.6(c)(5), in turn, states: ''Except as provided in section 63.6(b)(7),'' an area source that becomes a major source is treated as an existing major source and must comply with applicable MACT standards by the date specified in the standard for area sources that become major sources.[8] For those major source MACT standards that do not specify such a date, the affected source has a period of time to comply that is equivalent to the compliance period specified in the standard for existing affected sources (which is up to three years). 40 CFR 63.6(c)(5). Section 63.6(c)(5) was designed to address existing area sources that have not previously been subject to a MACT standard, but that later increase their emissions and become a major source. Section 63.6(c)(5) only applies, however, where the change that resulted in the increased emissions does not meet the definition of a new affected source under the relevant major source MACT standard.

As noted above, EPA today proposes to amend section 63.1 to add a new paragraph (c)(6) that would authorize a major source to become an area source at any time by obtaining a PTE limit limiting its HAP emissions to below major source thresholds. EPA proposes, however, the following restrictions.

The first restriction relates to a regulatory provision that we are adding to address the situation where sources switch between major and area source status more than once. Specifically, there may be situations where sources that are major sources as of the first substantive compliance date of the MACT standard later take PTE limitations to attain area source status, and then subsequently seek to switch back to major source status. In these situations, EPA proposes that 40 CFR 63.6(c)(5) not apply, and that, except as noted below, the source must meet the major source MACT standard immediately upon that standard again becoming applicable to the source. See proposed regulations at 40 CFR 63.1(c)(6)(i).[9] In this scenario, existing affected sources at the major source were previously subject to the MACT standard. The affected sources therefore should be able to comply with the standard immediately upon the standard again becoming applicable to them. *Id.*

To date, we have identified one set of circumstances where additional time would be necessary for the source to comply with the major source MACT. Specifically, there are situations where major source MACT rules may be amended and either become more stringent or apply to additional emission points or additional HAP. For example, under section 112(d)(6) MACT standards must be reviewed every 8 years and revised if necessary. If revisions issued pursuant to section 112(d)(6) increase the stringency of the standards or revise the standards such that they apply to additional emission points or HAP, it would be necessary to allow existing sources sufficient time to come into compliance with the new requirements. The revision of a MACT standard pursuant to section 112(d)(6) is only one example of a situation where a MACT rule may be revised. MACT rules are also amended for other reasons, including as the result of settlements resolving pending litigation over a standard. Any type of rule amendment situation where the

[6] We recognize that there may be sources that were major sources as of the first substantive compliance date of a MACT standard that, by complying with non-section 112 CAA requirements, became area sources for HAP emissions. In this instance, EPA proposes that the source obtain a PTE limit for its HAP emissions to ensure that those emissions remain below major source thresholds.

[7] Some individual MACT standards in Part 63 provide sources the opportunity to become area sources not by limiting total mass emissions directly, but by limiting material use or by taking other measures, which in turn, correlate to emissions below major source levels (*e.g.*, see subpart KK, Printing and Publishing and subpart JJ, Wood Furniture Manufacturing Operations (limiting HAP usage to below major source thresholds). We recommend that sources refer to the applicable NESHAP for guidance in determining whether the source meets the major source thresholds. See 40 CFR 63.2 (defining ''potential to emit''by reference to physical or operational limitations, including, for example, ''restrictions on hours of operation, or on the type or amount or material combusted, stored, or processed'').

[8] EPA explained the purpose of section 63.6(b)(7) in the preamble to the General Provisions as follows:

Section 63.6(b)(7) states that an unaffected new area source that increases its emissions of (or its potential to emit) HAP such that it becomes a major source, must comply with the relevant emission standard immediately upon becoming a major source. [Under section 63.6(b)(7), a]n unaffected existing area source that increases its emissions (or its potential to emit) such that it becomes a major source, must comply by the date specified for such a source in the standard. If such a date is not specified, the source would have an equivalent period of time to comply as the period specified in the standard for other existing sources. However, if the existing area source becomes a major source by the addition of a new affected source, or by reconstructing, the portion of the source that is new or reconstructed is required to comply with the standard's requirements for new sources.

59 FR 12408, 12413 (Mar. 16, 1994).

[9] The new proposed 40 CFR 63.1(c)(6)(i), like section 63.6(c)(5), is subject to the provisions of 40 CFR 63.6(b)(7).

amendments substantively modify the MACT could necessitate additional time for compliance. We are thus proposing that sources that switch status from major source to area source and then revert back to major source status, be allowed additional time for compliance if the major source standard has changed such that the source must undergo a physical change, install additional controls and/or implement new control measures. We propose that such sources have the same period of time to comply with the revised MACT standard as is allowed for existing sources subject to the revised standard. We solicit comment on this proposed compliance time-frame and whether the proposed regulatory text adequately captures the intended exception.

We are proposing the immediate compliance rule, with the above-noted exception, because we believe that in most cases, sources achieve and maintain area source status by operating the controls they used to meet the MACT standard. Therefore, a source that reverts to major source status should be in a position to comply immediately with the MACT standard. Sources may, in addition to, or in lieu of, operating controls, reduce their production level or hours of operation, but regardless of the means employed to attain area source status, we believe that the sources will likely not be removing the controls used to meet the MACT standard. We recognize that some MACT standards allow alternative compliance options, such as the use of low HAP materials, but these options should continue to be available for the affected source. Moreover, the addition of equipment or process units to an existing affected source should not change the source's ability to meet the MACT standard upon startup of the new equipment or unit because the equipment or process units should be accompanied by either a tie-in to existing controls or installation of new controls. See also 40 CFR 63.6(b)(7) (applying to new affected sources). We solicit comment on whether our assumptions, as stated in this paragraph, are correct.

More specifically, we solicit comment on the appropriateness of the proposed immediate compliance rule and whether such rule should be finalized. If it should be maintained, we solicit comment on whether there are other situations, in addition to the one noted above, that would necessitate an extension of the time period for compliance with the MACT standards. We further solicit comment on whether we should instead allow all sources that revert back to major source status a specific period of time in which to comply with the MACT standard, which would be consistent with the approach provided for in 40 CFR 63.6(c)(5). If we pursue this approach in the final rule, we request comment on whether we should provide the same time periods as are already provided for in 40 CFR 63.6(c)(5), or whether a different time period is appropriate and why. To the extent a commenter proposes a compliance time-frame, we request that the commenter explain the basis for providing that time-frame. Thus, depending on the comments received and the factual circumstances identified, we will consider (1) not finalizing the immediate compliance, with exceptions, approach, and instead providing all sources that revert back to major source status a defined period of time to comply consistent with the provisions of 40 CFR 63.6(c)(5); and (2) retaining the proposed immediate compliance rule, and adopting additional exceptions to that rule, if we receive persuasive and concrete scenarios that we believe would warrant allowing additional time to comply with a previously applicable MACT standard.[10] If we pursue the former approach, we would likely amend 40 CFR 63.6(c)(5). If we pursue the latter approach and retain the immediate compliance rule, but create exceptions in addition to the one noted above, there are two ways to implement the exceptions: Through a case-by-case compliance extension request process or by identifying in the final rule specific exceptions to the immediate compliance rule and providing a time period for compliance for each identified exception. Under the case-by-case approach, the permitting authority could grant limited additional time for compliance upon a specific showing of need. A case-by-case compliance extension request process would call for the owners or operators of sources to submit to the relevant permitting authority a request that (i) identifies the specific additional time needed for compliance, and (ii) explains, in detail, why the source needs additional time to come into compliance with the MACT standard. The permitting authority would review the request and could either approve it in whole, or in part (*i.e.*, by specifying a different compliance timeframe or allowing different timeframes for different parts of the affected sources), or deny the request.

We envision that a request for a compliance extension, if such an option is provided in the final rule, would ordinarily be made in the context of the title V permit application or an application to modify an existing title V permit. Any compliance extension, if granted, would be memorialized in the title V permit. Another option sources may consider is seeking approval to include in their title V permit alternative operating scenarios that address the source's different projected operating scenarios. By incorporating alternative operating scenarios into the permit, the source could avoid having to reopen and revise the permit if it chooses to switch source status and again become a major source.

If we retain the proposed immediate compliance rule with exceptions, we will also consider the option of including in the final rule defined compliance extension time-frames for defined factual scenarios, as we have done for the exception described above. Under this approach, if a source satisfies the criteria identified in the final rule, it would automatically be afforded the defined extension of time to comply with the MACT standard upon the source again becoming subject to MACT. This extension approach would be useful if there are specific factual scenarios that affect a broad number of sources, because defining the compliance extension time-frame in the final rule eliminates the burden on permitting authorities associated with the case-by-case approach.

In submitting your comments on the above-noted issues and proposed section 63.6(c)(6), please identify, with specificity, the factual circumstances that would warrant a compliance extension, explain why the source would need the extension under the circumstances identified, and why the source could not comply with the standard immediately upon returning to major source status given the identified circumstances. We specifically solicit comment on our discussion above as to the mechanics of obtaining a compliance extension if a case-by-case approach is finalized, including, for example, the type of information requested from the source seeking the proposed compliance extension, the permit vehicle used to obtain the extension, and any limitations on

[10] The new proposed regulatory provision at 40 CFR 63.1(c)(6)(i) is subject to the provisions of 40 CFR 63.6(b)(7). Thus, if a source adds a piece of equipment which results in emissions at levels in excess of the major source thresholds, and that equipment meets the definition of a new affected source under the relevant MACT standard, the source is subject to the provisions of 40 CFR 63.6(b)(7) and must meet the requirements for new sources in the relevant major source MACT standard including compliance at startup.

providing extensions.[11] We further solicit comment on the approach of providing a compliance extension in the final rule for certain defined factual scenarios. With regard to this approach, we solicit comment on the nature of the scenario that would warrant such an extension and the amount of additional time that would be needed to comply with the MACT standard and why such a period of time is needed to comply.

The second restriction to the new proposed regulatory provision at 40 CFR 63.1(c)(6) concerns those major sources that take PTE limits to become area sources and thereby become subject to area source standards in 40 CFR part 63. We propose that a major source with affected sources subject to a major source MACT standard that switches to area source status where the EPA has established area source standards for the same affected source would have to comply immediately with those area source standards if the first substantive compliance date has passed or would have to comply by the first substantive compliance date if it has not passed. Because the area source standard is not likely to be more stringent than the major source MACT standard that the source was already meeting, the source likely will not need additional compliance time after the source status change. However, if different emission points are controlled or different controls are necessary to comply with the area source standard or other physical changes are needed to comply with the standard, additional time, not to exceed 3 years, may be granted by the permitting authority if adequate support for the additional time is provided by the source.[12]

Accordingly, EPA is proposing to add 40 CFR 63.1(c)(6)(ii), which provides that a major source that subsequently becomes an area source by limiting its PTE must meet all applicable area source requirements in Part 63 immediately upon the effective date of the permit containing the PTE limits, provided the first compliance date for the area source standard has passed. We further propose that if a source (or a portion thereof) must undergo a physical change or install additional control equipment to meet the applicable area source standard, the source may submit to the relevant permitting authority a request that (i) identifies the specific additional time needed for compliance (i.e., such request cannot exceed three years) with the area source standard, and (ii) explains, in detail, why the additional time is necessary to comply with the standard. The proposed new regulatory provision—40 CFR 63.1(c)(6)(ii)—is delegable. *See generally* 42 U.S.C. 7412(l); 40 CFR Subpart E. A permitting authority may approve, in whole or in part, or deny the request.

The proposed new regulatory provision, 40 CFR 63.1(c)(6)(ii), is analogous to 40 CFR 63.6(c)(5), which is briefly described above. We promulgated 40 CFR 63.6(c)(5) as part of the General Provisions, because we recognized a gap in the statute. Specifically, the statute is silent as to how to address sources that are existing area sources at the time the MACT standard is promulgated and that, at some later date, become major sources subject to the MACT standard. Section 63.6(c)(5) fills this particular gap. Similarly, the statute does not address the scenario where a major source becomes an area source and the compliance date for the area source standard has already passed and modifications to the source are needed to achieve compliance with the standard. EPA today proposes 40 CFR 63.1(c)(6)(ii) to address this situation. Section 112(i)(3) does not directly address either of these identified scenarios. Rather, it directly addresses those sources that are existing affected sources as of the date the emission standard is promulgated. See CAA section 112(i)(3) (''After the effective date of any emission standard * * * promulgated under this section and *applicable to a source*, no person may operate such source in violation of such standard * * * except in the case of an existing source,'' EPA shall provide a compliance date that provides for compliance as expeditiously as practicable, but no later than 3 years *''after the effective date of the standard.''*) (emphasis added). Moreover, the new proposed regulatory provision, 40 CFR 63.1(c)(6)(ii), is consistent with CAA section 112(i)(3), because it requires sources to comply immediately with the area source standard upon the effective date of the permit containing the PTE limit (which is the permit that provides area source status), and authorizes additional time only if the Permitting Authority determines that such time is appropriate based on the facts and circumstances. In any event, any extension of time provided pursuant to proposed 40 CFR 63.1(c)(6)(ii) cannot exceed three years.

Under today's proposed regulations, sources that reduce their emission levels and obtain a PTE HAP limit below major source thresholds must meet that limit and all associated conditions, as specified in the relevant permit, on the effective date of the permit. Prior to the effective date of the permit, the source must continue to comply with the relevant major source MACT standard(s) and other conditions in its title V permit. Of course, permitting authorities may deny a request to adopt area source status where the source has changed its status more than once, if, in the opinion of the permitting authority, these actions are an indication that the restrictions on PTE are, in practice, ineffective.

To the extent an area source standard applies, the compliance date for that standard has passed, and the source needs a compliance extension, the source must apply for and obtain that compliance extension before becoming subject to the area source standard; otherwise, the source will be in violation of the area source standard. We solicit comment on the proposed case-by-case compliance extension date approach, including, for example, the type of information that should be requested from the source seeking the proposed compliance extension, the permit vehicle used to obtain the extension, and whether the limitations proposed above (i.e., the affected source must undergo a physical change or install additional control equipment in order to meet the area source standard) are appropriate. See proposed regulations at 40 CFR 63.1(c)(6)(ii). We also solicit comment generally on the mechanics of obtaining the compliance extension and the appropriate vehicle for requesting the compliance extension. If the area source category is not exempted from the requirements of title V, the request for a compliance extension can be made in the context of the title V permit process. If, however, the area source category at issue is exempt from title V, the source could submit its compliance date extension request to the permitting authority issuing its PTE HAP limitation, provided that the permitting authority is the same State authority that has been

[11] Some major sources that switch to area source status may, as an area source, no longer be subject to title V requirements and therefore apply to their permitting authority to terminate their title V permits and obtain a PTE limit through another permit vehicle. Presumably, such sources would have their title V permit terminated at the same time the non-title V permit limiting their PTE becomes effective. If, however, the area source reverts back to major source status, the source will once again have to obtain a title V permit. The source would also have to terminate the non-title V permit containing its PTE limit to allow it to emit at major source levels. Once the HAP PTE limitation no longer applies to the source, the source must comply with applicable major source MACT standards or have taken appropriate steps to apply for a compliance extension.

[12] The existing regulations do not address the issue of compliance time-frames for sources that switch from major source status to area source status. *See* CAA section 112(i)(3), 40 CFR 63.6(c)(5).

delegated authority to implement the Section 112 program. We further solicit comment on whether the proposed compliance date extension provision in 40 CFR 63.1(c)(6)(ii) should be extended to major sources that become area sources only a few months prior to the compliance date of an applicable area source standard, to the extent the source needs additional time to comply.

We solicit comment on all aspects of the proposed new regulatory provisions at 40 CFR 63.1(c)(6)(i) and (ii). For either of the two situations described above (*i.e.*, where a source switches from major, to area, and back to major source status, and where a source switches from major to area source status), a source must notify the Administrator under § 63.9(b) of any standards to which it becomes subject.

The final restriction relevant to the regulations we are proposing to add to 40 CFR 63.1 relates to an enforcement issue. See proposed regulations at 40 CFR 63.1(c)(6)(iii). Specifically, we do not intend to allow major sources that are subject to enforcement investigations or enforcement actions to avoid the results of such investigations or the consequences of such actions by becoming area sources. Although sources that are the subject of an investigation or enforcement action may still seek area source status for purposes of future applicability, they are not absolved of any previous or pending violations of the CAA that occurred while they were a ''major source,'' and the source must bear the consequences of any enforcement action or remedy imposed upon it, which could include fines or imposition of additional emission reduction requirements. Accordingly a source cannot use its new area source status as a defense to MACT violations that occurred while the source was a major source. Similarly, becoming a major source does not absolve a source subject to an enforcement action or investigation for area source violations or infractions from the consequences of any actions occurring when the source was an area source.

Finally, we are proposing to amend each of the General Provisions applicability tables contained within most subparts of part 63 to add a reference to new paragraph 63.1(c)(6). In addition, in reviewing several of the MACT standards, we identified one general category of regulatory provisions that may need revision and we solicit comment on whether any revisions are in fact necessary. This category of provisions addresses the date by which a major source can become an area source. The provisions that we have identified to date, however, all include the specific compliance date of the standard, which in all instances has passed. See e.g., 40 CFR 63.787(b)(iv) (''Existing major sources that intend to become area sources by the December 18, 1997 compliance date may choose to * * * ''). Thus, although these regulatory provisions reflect the 1995 OIAI policy that this proposed rule seeks to replace, the provisions themselves have no current effect because the compliance date specified in the regulations has passed. In light of this, we are not proposing regulatory changes to these provisions, but we solicit comment on whether such changes are necessary. We further solicit comment on whether there are any other regulatory provisions in any of the individual subparts that would warrant modification or clarification consistent with today's proposal.

IV. Impacts of the Proposed Amendments

The environmental, economic, and energy impacts of the proposed amendments cannot be quantified without knowing which sources will avail themselves of the regulatory provisions proposed in this rule and what methods of HAP emission reductions will be used. It is unknown how many sources would choose to take permit conditions that would limit their PTE to below major source levels. Within this group it also is not known how many sources may increase their emissions from the major source MACT level (assuming the level is below the major source thresholds). Similarly we cannot identify or quantify the universe of sources that would decrease their HAP emissions to below the level required by the NESHAP to achieve area source status. We believe that many, if not most, sources that could reduce HAP emissions to area source levels prior to the first substantive compliance date of a MACT standard have already done so. We solicit comment on potential impacts, specifically the number of potential and likely sources that may avail themselves of the approach provided for in today's proposal and additional emission reductions that may be achieved or increases that may occur; please provide any analysis in your comment. There is no requirement that sources avail themselves of the approach proposed today, and each source should assess its own situation to determine whether the additional costs associated with achieving additional emission reductions is beneficial to the source, in exchange for becoming an area source and realizing the associated benefits.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action'' because it raises novel legal or policy issues arising out of legal mandates. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

The proposed amendments would impose no information collection requirements. Sources opting to become area sources may experience some reduction in reporting and recordkeeping requirements, as they would no longer be subject to major source MACT requirements. Any changes in reporting or recordkeeping would be done through the permitting mechanisms of the responsible permitting authority. It is not possible to identify how many sources would choose to employ these provisions, nor is it possible to determine what, if any changes, to reporting and recordkeeping would be made. Permitting authorities may, in fact, choose to establish the NESHAP provisions themselves as the PTE limits and change little or nothing.

Furthermore, approval of an ICR is not required in connection with these proposed amendments. This is because the General Provisions do not themselves require any reporting and recordkeeping activities, and no ICR was submitted in connection with their original promulgation or their subsequent amendment. Any recordkeeping and reporting requirements are imposed only through the incorporation of specific elements of the General Provisions in the individual MACT standards which are promulgated for particular source categories which have their own ICRs.

The Office of Management and Budget has previously approved the information collection requirements contained in the existing regulations of 40 CFR part 63 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* A copy of the OMB approved Information Collection Request (ICR) for any of the existing regulations may be obtained from Susan Auby, Collection Strategies Division; U.S. EPA (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460, or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any proposed rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

For purposes of assessing the impacts of the proposed amendments on small entities, small entity is defined as: (1) A small business as defined in each applicable subpart; (2) a government jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and that is not dominant in its field.

After considering the economic impacts of the proposed amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives which minimize any significant economic impact on a substantial number of small entities (5 U.S.C. 603–604). Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

Small entities that are subject to MACT standards would not be required to take any action under this proposal; any action a source takes to become reclassified as an area source would be voluntary. In addition, we expect that any sources using these provisions will experience cost savings that will outweigh any additional cost of achieving area source status.

The only mandatory cost that would be incurred by air pollution control agencies would be the cost of reviewing sources' permit applications for area source status and issuing permits. No small governmental jurisdictions operate their own air pollution control agencies, so none would be required to incur costs under the proposal. In addition, any costs associated with application reviews and permit issuance are expected to be offset by reduced agency oversight obligations for sources that no longer must meet major source MACT requirements.

Based on the considerations above, we have concluded that the proposed amendments will relieve regulatory burden for all affected small entities. Nevertheless, we continue to be interested in the potential impacts of the proposed amendments on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that the proposed amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Sources subject to MACT standards would not be required to take any action under this proposal, including sources owned or operated by State, local, or tribal governments; the provisions in these proposed amendments are strictly voluntary. In addition, the proposed amendments are expected to result in reduced burden on any source that achieves area source status in accord with them. Under the proposed amendments, a State, local, or tribal air pollution control agency to which we have delegated section 112 authority would be required to review permit applications and make modifications to the permit as necessary. However, most applications would not be lengthy or complicated, and costs would not approach the $100 million annual threshold. In addition, any costs associated with these reviews are expected to be offset by reduced agency oversight obligations for sources that no longer must meet major source requirements. Thus, the proposed amendments are not subject to the requirements of sections 202 and 205 of UMRA. EPA has determined that the proposed amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Thus, the proposed

amendments are not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

These proposed amendments do not have federalism implications. They will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Although the proposed amendments would require State air pollution control agencies to review and modify permits as appropriate, the burden on States will not be substantial. In addition, we expect that the overall effect of the proposed amendments will be to reduce the burden on State agencies as their oversight obligations become less demanding for sources no longer subject to major source MACT requirements. Thus, Executive Order 13132 does not apply to these proposed amendments.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on these proposed amendments from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes.''

These proposed amendments do not have tribal implications, as specified in Executive Order 13175. They will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Any tribal government that owns or operates a source subject to MACT standards would not be required to take any action under this proposal; the provisions in the proposed amendments would be strictly voluntary. In addition, achieving area source status would result in reduced burden on any source that no longer must meet major source requirements. Under the proposed amendments, a tribal government with an air pollution control agency to which we have delegated section 112 authority would be required to review permit applications and to modify permits as necessary. However, such reviews are not expected to be lengthy or complicated, so the effects will not be substantial. In addition, any costs associated with these reviews are expected to be offset by reduced agency oversight obligations for sources no longer required to meet major source requirements. Thus, Executive Order 13175 does not apply to these proposed amendments.

However, in the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and Indian tribes, EPA specifically solicits comment on the proposed amendments from tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. These proposed amendments are not subject to Executive Order 13045 because they are not ''economically significant'' and because all MACT standards governed by the General Provisions are based on technology performance and not on health or safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

The proposed amendments are not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we believe that the proposed amendments are not likely to have any adverse energy impacts.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law 104–113,12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

These proposed amendments do not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed amendments, and specifically invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in the proposed amendments.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: December 21, 2006.

Stephen L. Johnson,

Administrator.

For the reasons cited in the preamble, title 40, chapter 1 of the Code of Federal

Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

1. The authority citation of part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart A—[Amended]

2. Section 63.1 is amended by adding a new paragraph (c)(6) to read as follows:

§ 63.1 Applicability.

* * * * *

(c) * * *

(6) A major source may become an area source at any time by obtaining a permit limiting its potential to emit (PTE) hazardous air pollutants, as defined in this subpart, to below the major source thresholds established in 40 CFR 63.2, subject to the restrictions in paragraphs (c)(6)(i) through (iii) of this section. Until the permit containing the PTE limit becomes effective, the source remains subject to major source requirements. After the permit containing the PTE limit becomes effective, the source is subject to any applicable requirements for area sources.

(i)(A) The owner or operator of a major source subject to standards under this part that subsequently becomes an area source by limiting its PTE to below major source thresholds, and then later again becomes a major source by increasing its emissions to the major source thresholds or above, must comply immediately with the major source requirements of this part upon becoming a major source, notwithstanding § 63.6(c)(5), except as noted in paragraph (i)(B) below. Such major sources must comply with the notification requirements of § 63.9(b).

(B) If, as described in paragraph (i)(A), a source again becomes subject to the standard for major sources, that standard has been revised since the source was last subject to the standard and, in order to comply, the source must undergo a physical change, install additional controls and/or implement new control measures, the source will have up to the same amount of time to comply as the amount of time allowed for existing sources subject to the revised standard.

(ii) A major source that becomes an area source by limiting its PTE must meet all applicable area source requirements promulgated under this part immediately upon the effective date of the permit containing the PTE limits, provided the first substantive compliance date for the area source standard has passed, except that the permitting authority may grant additional time, up to 3 years, if the source must undergo physical changes or install additional control equipment in order for the source (or portion thereof) to comply with the applicable area source standard and the permitting authority determines that such additional time is warranted based on the record. A source seeking additional compliance time must submit a request to the permitting authority that identifies the amount of additional time requested for compliance and provides a detailed justification supporting the requested. Area sources not previously subject to area source standards must comply with the notification requirements of § 63.9(b).

(iii) Becoming an area source does not absolve a source subject to an enforcement action or investigation for major source violations or infractions from the consequences of any actions occurring when the source was major. Becoming a major source does not absolve a source subject to an enforcement action or investigation for area source violations or infractions from the consequences of any actions occurring when the source was an area source.

* * * * *

3. Section 63.6 is amended by revising the second sentence in paragraph (c)(5) to read as follows:

§ 63.6 Compliance with standards and maintenance requirements.

* * * * *

(c) * * *

(5) * * * Except as provided in § 63.1(c)(6)(i) such sources must comply by the date specified in the standards for existing area sources that become major sources. * * *

* * * * *

4. Section 63.9 is amended by adding a sentence to the end of paragraph (b)(1)(ii) to read as follows:

§ 63.9 Notification requirements.

* * * * *

(b) * * *

(1)(i) * * *

(ii) * * * Area sources previously subject to major source requirements that again become major sources are also subject to the notification requirements of this paragraph.

* * * * *

Subpart F—[Amended]

5. Table 3 to subpart F of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 3 TO SUBPART F OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPARTS F, G, AND H[A] TO SUBPART F

Reference	Applies to subparts F, G, and H	Comment
* * * * * * *		
63.1(c)(6)	Yes.	
* * * * * * *		

[a] Wherever subpart A specifies ''postmark'' dates, submittals may be sent by methods other than the U.S. Mail (*e.g.*, by fax or courier). Submittals shall be sent by the specified dates, but a postmark is not necessarily required.

* * * * *

Subpart N—[Amended]

6. Table 1 to subpart N of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART N OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART N

General Provisions Reference	Applies to subpart N	Comment
* * * * * * *		
63.1(c)(6)	Yes.	
* * * * * * *		

Subpart O—[Amended]

7. Table 1 to § 63.360 is amended by adding an entry for § 63.1(c)(6) to read as follows:

§ 63.360 Applicability.

(a) * * *

TABLE 1 OF SECTION 63.360.—GENERAL PROVISIONS APPLICABILITY TO SUBPART O

Reference	Applies to sources using 10 tons in subpart O[a]	Applies to sources using 1 to 10 tons in subpart O[a]	Comment
* * * * * * *			
63.1(c)(6)		Yes.	
* * * * * * *			

[a] See definition.

* * * * *

Subpart R—[Amended]

8. Table 1 to subpart R of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART R OF PART 63.—GENERAL PROVISIONS APPLICABILITY TO SUBPART R

Reference	Applies to subpart R	Comment
* * * * * * *		
63.1(c)(6)	Yes.	
* * * * * * *		

Subpart S—[Amended]

9. Table 1 to subpart S of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART S OF PART 63.—GENERAL PROVISIONS APPLICABILITY TO SUBPART S[A]

Reference	Applies to subpart S	Comment
* * * * * * *		
63.1(c)(6)	Yes.	
* * * * * * *		

[a] Wherever subpart A specifies "postmark" dates, submittals may be sent by methods other than the U.S. Mail (*e.g.*, by fax or courier). Submittals shall be sent by the specified dates, but a postmark is not required.

* * * * *

Subpart T—[Amended]

10. Appendix B to subpart T of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

Appendix B to Subpart T of Part 63—General Provisions Applicability to Subpart T

Reference	Applies to subpart T		Comments
	BCC	BVI	
* * * * * * *			
63.1(c)(6)	Yes	Yes.	
* * * * * * *			

* * * * *

Subpart U—[Amended]

11. Table 1 to subpart U of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

Table 1 to subpart U of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART U OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART U AFFECTED SOURCES

Reference	Applies to subpart U	Explanation
* * * * * * *		
63.1(c)(6) . . .	Yes.	
* * * * * * *		

* * * * *

Subpart W—[Amended]

12. Table 1 to subpart W of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART W OF PART 63.—GENERAL PROVISIONS APPLICABILITY TO SUBPART W

Reference	Applies to subpart W			Comment
	BLR	WSR	WSR alternative standard, and BLR equipment leak standard (40 CFR part 63, subpart H)	
* * * * * * *				
§ 63.1(c)(6)	Yes	Yes	Yes.	
* * * * * * *				

Subpart Y—[Amended]

13. Table 1 of § 63.560 is amended by adding an entry for § 63.1(c)(6) to read as follows:

§ 63.560 Applicability and designation of affected sources.

* * * * *

TABLE 1 OF § 63.560.—GENERAL PROVISIONS APPLICABILITY TO SUBPART Y

Reference	Applies to affected sources in subpart Y	Comment

TABLE 1 OF § 63.560.—GENERAL PROVISIONS APPLICABILITY TO SUBPART Y—Continued

Reference	Applies to affected sources in subpart Y	Comment
* * * * * * *		
63.1(c)(6)	Yes.	
* * * * * * *		

Subpart AA—[Amended]

14. Appendix A to subpart AA of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

40 CFR citation	Requirement	Applies to subpart AA	Comment
* * * * * * *			
63.1(c)(6)		Yes.	
* * * * * * *			

Subpart BB—[Amended]

15. Appendix A to subpart BB of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

Appendix A to Subpart BB of Part 63—Applicability of General Provisions (40 CFR Part 63, Subpart A) to Subpart BB

40 CFR citation	Requirement	Applies to subpart BB	Comment
* * * * * * *			
63.1(c)(6)		Yes.	
* * * * * * *			

Subpart CC—[Amended]

16. Table 6 to Appendix of subpart CC of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

Appendix to Subpart CC of Part 63—Tables

* * * * *

TABLE 6.—GENERAL PROVISIONS APPLICABILITY TO SUBPART CC [A]

Reference	Applies to subpart CC	Comment
* * * * * * *		
63.1(c)(6)	Yes.	
* * * * * * *		

[a] Wherever subpart A specifies ''postmark'' dates, submittals may be sent by methods other than the U.S. Mail (*e.g.*, by fax or courier). Submittals shall be sent by the specified dates, but a postmark is not required.

* * * * *

Subpart DD—[Amended]

17. Table 2 to subpart DD of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 2 TO SUBPART DD OF PART 63.—APPLICABILITY OF PARAGRAPHS IN SUBPART A OF THIS PART 63—GENERAL PROVISIONS TO SUBPART DD

Subpart A reference	Applies to subpart DD	Explanation

TABLE 2 TO SUBPART DD OF PART 63.—APPLICABILITY OF PARAGRAPHS IN SUBPART A OF THIS PART 63—GENERAL PROVISIONS TO SUBPART DD—Continued

Subpart A reference	Applies to subpart DD	Explanation
* * * * * * *		
63.1(c)(6)	Yes.	
* * * * * * *		

* * * * *

Subpart EE—[Amended]

18. Table 1 to subpart EE of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART EE OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EE

Reference	Applies to subpart EE	Comment
* * * * * * *		
63.1(c)(6)	Yes.	
* * * * * * *		

Subpart GG—[Amended]

19. Table 1 to subpart GG of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART GG OF PART 63.—GENERAL PROVISIONS APPLICABILITY TO SUBPART GG

Reference	Applies to affected sources in subpart GG	Comment
* * * * * * *		
63.1(c)(6)	Yes.	
* * * * * * *		

Subpart HH—[Amended]

Appendix to Subpart HH of Part 63-Tables

20. Table 2 of Appendix to subpart HH of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 2 TO SUBPART HH OF PART 63.—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART HH

General provisions reference	Applies to subpart HH	Explanation
* * * * * * *		
§ 63.1(c)(6)	Yes.	
* * * * * * *		

Subpart JJ—[Amended]

21. Table 1 to subpart JJ of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART JJ OF PART 63.—GENERAL PROVISIONS APPLICABILITY TO SUBPART JJ

Reference	Applies to subpart JJ	Comment
* * * * * * *		
63.1(c)(6)	Yes.	
* * * * * * *		

Subpart KK—[Amended]

22. Table 1 to subpart KK of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART KK OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART KK

General provisions reference	Applicable to subpart KK	Comment
* * * * * * *		
§ 63.1(c)(6)	Yes.	
* * * * * * *		

Subpart MM—[Amended]

23. Table 1 to subpart MM of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART MM OF PART 63.—GENERAL PROVISIONS APPLICABILITY TO SUBPART MM

Reference	Summary of requirements	Applies to subpart MM	Explanation
* * * * * * *			
63.1(c)(6)	Becoming an area source	Yes.	
* * * * * * *			

Subpart DDD—[Amended]

24. Table 1 to subpart DDD of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART DDD OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART DDD OF PART 63

General provisions citation	Requirement	Applies to subpart DDD?	Explanation
* * * * * * *			
63.1(c)(6)		Yes.	
* * * * * * *			

Subpart GGG—[Amended]

25. Table 1 to subpart GGG of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART GGG OF PART 63.—GENERAL PROVISIONS APPLICABILITY TO SUBPART GGG

General provisions reference	Summary of requirements	Applies to subpart GGG	Comments
* * * * * * *			
63.1(c)(6)	Becoming an area source	Yes.	
* * * * * * *			

Subpart HHH—[Amended]

26. Table 2 to subpart HHH of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

Appendix: Table 2 to Subpart HHH of Part 63—Applicability of 40 CFR Part 63 General Provisions to Subpart HHH

General Provisions Reference	Applies to subpart HHH	Explanation
* * * * * * *		
§ 63.1(c)(6)	Yes.	
* * * * * * *		

Subpart JJJ—[Amended]

27. Table 1 to subpart JJJ of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART JJJ OF PART 63—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART JJJ AFFECTED SOURCES

Reference	Applies to subpart JJJ	Explanation
* * * * * * *		
§ 63.1(c)(6)	Yes.	
* * * * * * *		

* * * * *

Subpart LLL—[Amended]

28. Table 1 to subpart LLL of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART LLL OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS

Citation	Requirement	Applies to subpart LLL	Explanation
* * * * * * *			
63.1(c)(6)		Yes.	
* * * * * * *			

Subpart MMM—[Amended]

29. Table 1 to subpart MMM of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART MMM OF PART 63.—GENERAL PROVISIONS APPLICABILITY TO SUBPART MMM

Reference to subpart A	Applies to subpart MMM	Explanation

TABLE 1 TO SUBPART MMM OF PART 63.—GENERAL PROVISIONS APPLICABILITY TO SUBPART MMM—Continued

Reference to subpart A	Applies to subpart MMM	Explanation
* * * * * * *		
§ 63.1(c)(6)	Yes.	
* * * * * * *		

Subpart NNN—[Amended]

30. Table 1 to subpart NNN of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART NNN OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART NNN

General provisions citation	Requirement	Applies to subpart NNN	Explanation
* * * * * * *			
63.1(c)(6)		Yes.	
* * * * * * *			

Subpart OOO—[Amended]

31. Table 1 to subpart OOO of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART OOO OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOO AFFECTED SOURCES

Reference	Applies to subpart OOO	Explanation
* * * * * * *		
63.1(c)(6)	Yes.	
* * * * * * *		

* * * * *

Subpart PPP—[Amended]

32. Table 1 to subpart PPP of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART PPP OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPP AFFECTED SOURCES

Reference	Applies to subpart PPP	Explanation
* * * * * * *		
63.1(c)(6)	Yes.	
* * * * * * *		

* * * * *

Subpart RRR—[Amended]

33. Appendix A to subpart RRR of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

APPENDIX A TO SUBPART RRR OF PART 63.__GENERAL PROVISIONS APPLICABILITY TO SUBPART RRR

Citation	Requirement	Applies to RRR	Comment
* * * * * * *			
§ 63.1(c)(6)		Yes.	
* * * * * * *			

Subpart VVV—[Amended]

34. Table 1 to subpart VVV of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 1 TO SUBPART VVV OF PART 63.—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART VVV

General provisions reference	Applicable to subpart VVV	Explanation
* * * * * * *		
§ 63.1(c)(6)	Yes.	
* * * * * * *		

Subpart HHHH—[Amended]

35. Table 2 to subpart HHHH of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 2 TO SUBPART HHHH OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART HHHH

Citation	Requirement	Applies to HHHH	Explanation
* * * * * * *			
§ 63.1(c)(6)		Yes.	
* * * * * * *			

Subpart IIII—[Amended]

36. Table 2 to subpart IIII of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 2 TO SUBPART IIII OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART IIII OF PART 63

Citation	Subject	Applicable to subpart IIII	Explanation
* * * * * * *			
§ 63.1(c)(6)	Becoming an area source	Yes.	
* * * * * * *			

Subpart JJJJ—[Amended]

37. Table 2 to subpart JJJJ of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 2 TO SUBPART JJJJ OF PART 63.—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART JJJJ

General provisions reference	Applicable to subpart JJJJ	Explanation
* * * * * * *		
§ 63.1(c)(6)	Yes.	
* * * * * * *		

Subpart KKKK—[Amended]

38. Table 5 to subpart KKKK of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 5 TO SUBPART KKKK OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART KKKK

Citation	Subject	Applicable to subpart KKKK	Explanation
* * * * * * *			
§ 63.1(c)(6)	Becoming an area source	Yes.	
* * * * * * *			

Subpart MMMM—[Amended]

39. Table 2 to subpart MMMM of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 2 TO SUBPART MMMM OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART MMMM OF PART 63

Citation	Subject	Applicable to subpart III	Explanation
* * * * * * *			
§ 63.1(c)(6)	Becoming an area source	Yes.	
* * * * * * *			

Subpart NNNN—[Amended]

40. Table 2 to subpart NNNN of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 2 TO SUBPART NNNN OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNN

Citation	Subject	Applicable to subpart NNNN	Explanation
* * * * * * *			
§ 63.1(c)(6)	Becoming an area source	Yes.	
* * * * * * *			

Subpart OOOO—[Amended]

41. Table 3 to subpart OOOO of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 3 TO SUBPART OOOO OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOO

Citation	Subject	Applicable to subpart OOOO	Explanation
* * * * * * *			
§ 63.1(c)(6)	Becoming an area source	Yes.	
* * * * * * *			

Subpart PPPP—[Amended]

42. Table 2 to subpart PPPP of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 2 TO SUBPART PPPP OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPP OF PART 63

Citation	Subject	Applicable to subpart PPPP	Explanation
* * * * * * *			
§ 63.1(c)(6)	Becoming an area source	Yes.	
* * * * * * *			

Subpart QQQQ—[Amended]

43. Table 4 to subpart QQQQ of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 4 TO SUBPART QQQQ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQ OF PART 63

Citation	Subject	Applicable to subpart QQQQ	Explanation
* * * * * * *			
§ 63.1(c)(6)	Becoming an area source	Yes.	
* * * * * * *			

Subpart RRRR—[Amended]

44. Table 2 to subpart RRRR of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 2 TO SUBPART RRRR OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART RRRR

Citation	Subject	Applicable to subpart	Explanation
* * * * * * *			
§ 63.1(c)(6)	Becoming an area source	Yes.	
* * * * * * *			

Subpart SSSS—[Amended]

45. Table 2 to subpart SSSS of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 2 TO SUBPART SSSS OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART SSSS

General provisions reference	Applicable to subpart SSSS	Explanation
* * * * * * *		
§ 63.1(c)(6)	Yes.	
* * * * * * *		

Subpart VVVV—[Amended]

46. Table 8 to subpart VVVV of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 8 TO SUBPART VVVV OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO (40 CFR PART 63, SUBPART A) TO SUBPART VVVV

Citation	Requirement	Applies to subpart VVVV	Explanation
* * * * * * *			
§ 63.1(c)(6)		Yes.	
* * * * * * *			

Subpart WWWW—[Amended]

47. Table 15 to subpart WWWW of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 15 TO SUBPART WWWW OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS (SUBPART A) TO SUBPART WWWW OF PART 63

The general provisions reference . . .	That addresses . . .	And applies to subpart WWWW of part 63 . . .	Subject to the following additional information . . .
* * * * * * *			
§ 63.1(c)(6)	Becoming an area source	Yes.	
* * * * * * *			

Subpart AAAAA—[Amended]

48. Table 8 to subpart AAAAA of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 8 TO SUBPART AAAAA OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA

Citation	Summary of requirement	Am I subject to this requirement?	Explanation
* * * * * * *			
§ 63.1(c)(6)	Becoming an area source	Yes.	
* * * * * * *			

Subpart PPPPP—[Amended]

49. Table 7 to subpart PPPPP of part 63 is amended by adding an entry for § 63.1(c)(6) to read as follows:

TABLE 7 TO SUBPART PPPPP OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPPP

Citation	Subject	Brief description	Applies to subpart PPPPP
* * * * * * *			
§ 63.1(c)(6)	Applicability	Becoming an area source	Yes.
* * * * * * *			

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 72

RIN 0920–AA03

Interstate Shipment of Etiologic Agents

AGENCY: Centers for Disease Control and Prevention (CDC), HHS.

ACTION: Notice for proposed rulemaking.

SUMMARY: HHS proposes to remove Part 72 of Title 42, Code of Federal Regulations, which governs the interstate shipment of etiologic agents, because the U.S. Department of Transportation (DOT) already has in effect a more comprehensive set of regulations applicable to the transport in commerce of infectious substances. DOT harmonizes its transport requirements with international standards adopted by the United Nations (UN) Committee of Experts on the Transport of Dangerous Goods for the classification, packaging, and transport of infectious substances. Rescinding the rule will eliminate duplication of the more current DOT regulations that cover intrastate and international, as well as interstate, transport. HHS replaced those sections of Part 72 that deal with select biological agents and toxins with a new set of regulations found in Part 73 of Title 42. HHS anticipates that removal of Part 72 will alleviate confusion and reduce the regulatory burden with no adverse impact on public health and safety.

DATES: Written comments must be received on or before March 5, 2007. Written comments on the proposed information collection requirements should also be submitted on or before March 5, 2007. Comments received after March 5, 2007 will be considered to the extent practicable.

ADDRESSES: You may submit written comments to the following address: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Infectious Diseases/OD, ATTN: Interstate Shipment of Etiologic Agents Comments, 1600 Clifton Road, NE (C12), Atlanta, GA 30333. Comments will be available for public inspection Monday through Friday, except for legal holidays, from 9 a.m. until 5 p.m. at 1600 Clifton Road, NE, Atlanta, GA. Please call Ruenell Massey at 404–639–945 to schedule your visit. Comments also may be viewed at *http://www.cdc.gov/ncidod/agentshipment/index.htm.* You may submit written comments by fax to 404–639–3039, Attention: Dr. Janet Nicholson, or electronically via the Internet at *http://www.regulations.gov.* To download an electronic version of the rule, you may access *http://www.regulations.gov.* You must include the agency name (Centers for Disease Control and Prevention) and Regulatory Information Number (RIN) on all submissions for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Dr. Janet K. Nicholson, National Center for Infectious Diseases/OD, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, 1600 Clifton Rd., NE (MS–C12), Atlanta GA 30333; telephone: 404–639–3945; e-mail *jkn1@cdc.gov.*

SUPPLEMENTARY INFORMATION: Part 72 of Title 42 of the Code of Federal Regulations provides minimal requirements for packaging and shipping materials, including diagnostic specimens and biological products, reasonably believed to contain an etiologic agent. It provides more detailed requirements, including labeling, for materials containing certain etiologic agents, with a list of the biological agents and toxins provided. For agents on the list, the rule requires reporting to HHS/CDC damaged packages and packages not received. The rule also requires sending certain agents on the list by registered mail or an equivalent system.

The rule, as currently promulgated, is out-of-date, and duplicates more current regulations of DOT. Further, the regulation is inconsistent with the procedures of other transport governing bodies, such as the International Civil Aviation Organization (ICAO) and the International Air Transport Association (IATA), for air, and the U.S. Postal Service for ground.

Section 72.6, a major portion of 42 CFR 72 that dealt with select agents, was superseded by the issuance of an Interim Final Rule for 42 CFR 73 on December 13, 2002 (67 FR 76886). Part 73 implements provisions of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

The continued existence of the remaining provisions of the out-of-date HHS/CDC regulation is confusing to the packaging and transport communities. The provisions serve no useful purpose that merits their retention. HHS/CDC will remain available for consultation on and response to public-health issues and emergencies, in accordance with its normal duties in the interest of public health and safety.

Transition From HHS to DOT Regulations

DOT has the primary statutory authority to regulate the safe and secure transportation of all hazardous materials, including infectious materials, shipped in intrastate, interstate, and foreign commerce. The etiologic agents covered by 42 CFR 72 are considered to be hazardous materials, and, in practice, the DOT regulations, 49 CFR 171–178, have superseded since DOT began including more specific regulations on infectious substances. The earlier versions of the DOT regulations on etiologic agents were based on and virtually identical to the HHS regulations. These regulations have been modified over time, as necessary, to continue to provide protection for persons who handle shipments with as few impediments as possible to quick shipment. In 1990, DOT authorized the term ''infectious substance'' as synonymous with ''etiologic agent.'' In 1991, DOT expanded the definition of ''etiologic agent'' to include agents listed in 42 CFR 72, plus others that cause or could cause severe, disabling or fatal human disease, thereby including agents such as human immunodeficiency virus that were not on the HHS list. DOT also issued expanded packaging

requirements at that same time. In 1994 and 1995, DOT worked with other Federal agencies (including HHS/CDC, the HHS/Food and Drug Administration, the Occupational Safety and Health Administration, and the Environmental Protection Agency) to minimize differences between the DOT regulations and other Federal regulations on regulated medical waste, and to ease compliance and eliminate gaps to assure safety.

UN Recommendations and Model Regulations

The UN publishes Recommendations on the Transport of Dangerous Goods and Model Regulations on a biennial basis. The recommendations are developed by the Committee of Experts on the Transport of Dangerous Goods of the UN Economic and Social Council. Model Regulations were first adopted in December 1996, for the 10th Revised Edition. The purpose of the Model Regulations is to present a basic scheme of provisions that will allow uniform development of national and international regulations that govern the various modes of transport, thereby facilitating worldwide harmonization.

In 1997, the World Health Organization (WHO) published ''Guidelines for the Safe Transport of Infectious Substances and Diagnostic Specimens,'' prepared by the Directors of WHO Collaborating Centers for Biosafety and other advisers to provide practical guidance to facilitate compliance with international standards.

HHS/CDC has a WHO Collaborating Center for Biosafety and Training, and has provided consultation to the WHO Secretariat and to the Committee of Experts on infectious-substance issues and the development of the UN Recommendations and Model Regulations.

DOT has also worked with the Committee of Experts, and over time has harmonized the DOT regulations with the UN Model Regulations.

In October 2001, the WHO convened a meeting, which included infectious-disease and biosafety experts, to consider guidance needed for the safe transport of infectious substances, and to identify the infectious substances that need to be subject to transport regulation. The meeting developed a consensus document, and presented it to the UN Committee of Experts. Subsequent deliberations resulted in development and publication of the 13th Revised Edition of the UN Model Regulations for Transport of Infectious Substances, published in 2004.

These model regulations recommended a new classification scheme of categories A and B, based on risk during transport, instead of primarily in the laboratory. The WHO and the Committee of Experts assessed the risk of infection by pathogens in the transport setting and, with review by HHS/CDC and other public-health experts and scientists, refined the list of Category A agents of concern. Category A includes ''an infectious substance which is transported in a form that, when exposure to it occurs, is capable of causing permanent disability, life-threatening or fatal disease to humans or animals.'' Category B includes ''an infectious substance which does not meet the criteria for inclusion in Category A.'' Packaging requirements were clarified and simplified for each category.

The ''Infectious Substances'' portion of the 14th Revised Edition of the UN Model Regulations, adopted in December 2004 and published in 2005, is very similar to the 13th Edition. The new edition adds a definition for ''patient specimens''; adds ''cultures only'' to several microorganisms on the infectious-substances list for Category A; clarifies shipping names and labeling; and clarifies exemptions from regulations.

In September 2005, the WHO Secretariat published ''Guidance on Regulations for the Transport of Infectious Agents'' (WHO/CDS/CSR/LYO/2005.22) which combined into one document the component parts of the 13th and 14th Revised Editions.

Harmonization of DOT Regulations With UN/WHO Publications

The DOT Notice of Proposed Rulemaking (NPRM), published on January 22, 2001 (66 FR 6941), for public comment, and the final rule, published on August 14, 2002 (67 FR 53118), which became effective on October 1, 2002, revised definitions and adopted packaging requirements consistent with international standards. The DOT final rule incorporated new classification criteria (WHO Risk Groups 1–4 at that time) for infectious substances, diagnostic specimens, biological products, genetically modified organisms and microorganisms, and medical wastes—consistent with the 12th Revision of the UN Model Regulations of 2001. Among other changes, the final rule revised packaging requirements for toxic and infectious substances consistent with the international performance standards. HHS/CDC and other relevant Federal agencies reviewed the DOT proposals before final publication.

The DOT Notice of Proposed Rulemaking (NPRM), published on May 19, 2005 (70 FR 29170), further harmonized the DOT regulations with the 13th and 14th Revised Editions of UN Model Regulations. DOT developed a final rule after consideration of comments received from the public, including the affected commercial, research, public-health, medical, and transport communities, and after discussion with other relevant Federal regulating authorities. The final rule was published on June 2, 2006 (71 FR 32244) and became effective on October 1, 2006.

The DOT final rule is almost entirely consistent with the UN Model Regulations. One non-substantive difference is that the final rule retains the definition of ''biological products'' that is more consistent with the definition used by HHS/FDA and other Federal agencies.

Specimens With Low Likelihood of Pathogens

Another difference relates to the exemption from regulation of human and animal specimens for which there is minimal likelihood that pathogens are present. The UN Model Regulations recommend exemption if the specimen is transported in a package (three components) that will prevent any leakage; is of adequate strength for its capacity, mass, and intended use; and is marked as an exempt specimen. The DOT regulations do not specify any packaging requirement for these specimens with minimal likelihood that pathogens are present.

The requirement for triple packaging for these specimens, however, is included in the requirements issued by other transport-governing organizations. The U.S. Postal Service Domestic Mail Manual (DMM) requires special packaging (not subject to performance requirements as for infectious substances) for liquid diagnostic specimens that would not meet the current definitions for a Category A or B infectious substance. The packaging is consistent with the packaging recommended in the UN Model Regulations, except that for specimens that do not exceed 50 ml. the second leak-proof container may serve as the shipping container if it has enough strength to withstand ordinary postal processing. It is likely these requirements will be revised in time to be entirely consistent with the UN Model Regulations. The ICAO Technical Instructions (ICAO TI) govern virtually all shipments transported internationally by air, and the majority of U.S. domestic air shipments.

Addendum No. 2 to ICAO TI (Doc. 9284), issued June 30, 2005, includes almost verbatim the language from the UN Model Regulations regarding exempt specimens, except that the UN made recommendations for packaging and the ICAO TI requires the packaging specifications. IATA does the same in Addendum III, posted July 5, 2005, to the 46th Edition of IATA Dangerous Goods Regulations. Inclusion of the triple-packaging provision by these organizations covers virtually all shipment in commerce of routine patient specimens and biological products for which there is little likelihood of containing an infectious substance.

Section by Section—Comments on Removal

HHS provides a section-by-section rationale for removing the remaining portions of 42 CFR 72.

Section 72.1 Definitions

Current definitions consistent with UN/WHO recommendations are provided in the DOT rule that applies to intra-state and international as well as interstate transport.

Section 72.2 Transportation of Diagnostic Specimens, Biological Products, and Other Materials; Minimum Packaging Requirements

Section 72.2 provided that diagnostic specimens and biologic products which the shipper ''reasonably believes may contain an etiologic agent'' must be ''packaged to withstand leakage of contents, shocks, pressure changes, and other conditions incident to ordinary handling in transportation.'' The DOT detailed packaging requirements for Categories A and B have superseded this very general requirement. The term ''infectious substance'' has replaced ''etiologic agent'' in the UN Model Regulations, and in the DOT and other applicable regulations. Those regulations define ''infectious substance'' as a ''material known or reasonably expected to contain a pathogen.''

The DOT regulations define pathogens into two categories. Category A is an ''infectious substance in a form that is capable of causing permanent disability or life-threatening or fatal disease in otherwise healthy humans or animals when exposure to it occurs.'' Category B is an infectious substance that does not meet the criteria for Category A. The DOT final rule exempts a ''material that has a low probability of containing an infectious substance, or where the concentration of the infectious substance is at a level naturally occurring in the environment so it cannot cause disease when exposure to it occurs.'' As stated above, leak-proof packaging of adequate strength is required for these materials by the U.S. Postal Service, ICAO, and IATA. The DOT final rule provides for classification and shipping as Category A or B a biological product ''known or reasonably expected'' to contain a pathogen that meets the criteria for either category, thereby covering the same substances as covered by the original intent of section 72.2.

Further, the HHS rule covered the substances only in transport from one State to another or from one State through another State and back to the State of origin. The DOT regulations cover transport within State, and in international commerce, as well as from State-to-State.

Section 72.3 Transportation of Materials Containing Certain Etiologic Agents; Minimum Packaging Requirements

This section provided a list of specific agents that cannot be shipped in interstate traffic, unless packaged, labeled, and shipped in accordance with the requirements specified in the section. Neither the list of agents, nor the packaging, labeling, and shipping requirements, have been kept up-to-date, and have now become outmoded because of the extensive process undertaken biennially by the UN Committee of Experts on the Transport of Dangerous Goods and the harmonization of the DOT regulations with the resultant UN Model Regulations and the WHO ''Guidance on the Transport of Infectious Substances.'' The HHS/CDC WHO Collaborating Center for Biosafety has been a partner in that effort.

The list included in the June 2, 2006, DOT final rule differs from the list in the UN Model Regulations in the 14th Revision in only two instances. The DOT list does not include hepatitis B virus (cultures only), and it includes ''and other lyssaviruses'' as part of the rabies listing. All microorganisms on the DOT list are to be packaged and shipped as Category A infectious substances.

A comprehensive discussion of the new method of categorizing substances as Category A or B for purposes of transportation can be found in the previously referenced DOT final rule entitled ''Hazardous Materials: Infectious Substances; Harmonization with the United Nations Recommendations; Final Rule'' (71 FR 32244, June 2, 2006). HHS/CDC encourages all persons who are interested in commenting on the rescission of 42 CFR 72 to read the DOT final rule for a more comprehensive understanding of the new method of categorization, and to review the substances in Category A.

In brief, the UN Committee of Experts on the Transport of Dangerous Goods, with input of HHS/CDC, the WHO Secretariat, and others, developed a classification scheme more suited for the risks inherent in transport as opposed to risks in the laboratory. The previous system of four risk groups, with ''4'' as highest risk, was developed primarily to protect workers in the laboratory environment. The new Category A includes an infectious substance transported in a form that is capable of causing permanent disability or life-threatening or fatal disease to otherwise healthy humans or animals when exposure to it occurs. It includes substances previously categorized in Risk Group 4 and some in Risk Groups 2 and 3. Category B includes infectious substances (diagnostic or clinical specimens) that do not meet the criteria for Category A. The DOT final rule provides a list (not all-inclusive) of Category A agents.

HHS encourages the public to review the current packaging requirements provided in the DOT final rule cited above, as well as the DOT final rule entitled ''Revisions to Standards for Infectious Substances'' published in the **Federal Register** (67 FR 53118), August 14, 2002. The requirements are consistent with the requirements adopted by the UN, and have been refined over time to be more specific than the older HHS requirements, with some liquid-volume changes from those specified in 72.2(a)(b). Another example of refinement is that the DOT regulations require the outer packaging to release carbon dioxide gas when dry ice (72.2(c)) is used, while maintaining structural integrity of the package.

72.3(d) describes a label that is required on the outer shipping container for etiologic agents transported in interstate traffic. The UN Model Regulations have also described a label that can be recognized for transport of these agents anywhere in the world. With harmonization of the DOT regulations with the international regulations, the label required in this section of the HHS regulation is duplicative, and no longer necessary.

72.3(e) required reporting of damaged packages to HHS. The label mentioned above included the statement: ''In case of damage or leakage, notify Director CDC,'' and a telephone number was provided. Reporting over the years has been sporadic, and has served little direct purpose. The attention to the

importance of preventing leakage and preventing exposure has resulted in the benefit that most carriers have cleanup procedures in place, and most reports are made after the persons involved have followed the company procedures for cleanup. Having procedures in place, such as the U.S. Postal Service has, is preferable to relying on a call to HHS to obtain directions. Moreover, the DOT regulations (at 49 CFR 171.15 and 171.16) require carriers to report transportation incidents that involve infectious substances. Immediate reporting by telephone is required for incidents where fire, breakage, spillage, or suspected contamination occurs that involves the shipment of infectious substances (see 49 CFR 171.15(a)(3)). In addition, a written report is required for any unintentional release of hazardous materials from a packaging during transportation (see 49 CFR 171.16(a)). Additional reporting of incidents to HHS is redundant and unnecessary. The DOT regulations permit a carrier to provide telephoned incident reports to HHS instead of DOT. For consistency, DOT will amend this provision of its regulations after rescission of Part 72.

DOT regulations require packages that contain infectious substances to be labeled to indicate the infectious hazard (see 49 CFR 172.434 for a depiction of the required label). The label currently includes this statement: ''In case of damage or leakage immediately notify public health authority. In USA, notify Director—CDC; Atlanta, GA; 1–800–232–0124.'' DOT will consider revising the INFECTIOUS SUBSTANCE label after rescission of Part 72.

The WHO ''Guidance on Regulations for the Transport of Infectious Substances,'' September 2005, provides specific recommended procedures for spill cleanup. This Guidance is available to the agencies that govern land and air shipment. The recommended procedures reflect those contained in the WHO Laboratory Biosafety Manual, Third Edition, 2004. As discussed below, the DOT regulations provide criteria for incident reporting. The HHS regulation required reporting of ''damaged packages'' without additional criteria for reporting. Nothing will be lost by withdrawing this requirement for immediate and routine reporting of damaged packages.

Although routine reporting to HHS will not be required by regulation after removal of Part 72, HHS will remain available for consultation on and response to public-health issues and emergencies, in accordance with its normal duties in the interest of public health and safety. As part of this support, HHS will maintain the current reporting telephone number on a 7 day/24 hour basis in order to assist DOT with the management of suspected exposures.

HHS/CDC and the HHS/National Institutes of Health are currently revising the manual, Biosafety in Microbiological and Biomedical Laboratories. The section of the 5th Edition that is related to transport of agents is expected to contain general guidelines for the cleanup of infectious substances. This section will be useful to organizations responsible for transporting packages; having clean-up procedures in place is the most important element of response to a damaged package.

72.3(f) Registered mail or an equivalent system. This section lists several agents that are required to be shipped by registered mail or an equivalent system, with required notification of receipt. All but one of these agents (Histoplasma capsulatum) is included on the list of select agents and toxins covered by 42 CFR 73. 42 CFR 73 establishes more strict requirements for transfer of these agents. The sender and recipient must have a certificate of registration for the agent. A form is submitted to HHS for approval of the transfer. Packaging and shipping must comply with all applicable requirements (Category A for these agents), including those of DOT. The recipient must notify the sender and HHS of receipt within 2 business days, or of non-receipt within 48 hours after expected time of receipt. The requirement for registered mail for these agents is no longer applicable.

Section 72.4 Notice of Delivery; Failure to Receive

This section required notification of the Director of HHS of non-delivery within five days of expected delivery of the agents listed in 72.3(f). As stated above, 42 CFR 73 provides more strict notification requirements for these agents. Notification is required of non-delivery within 48 hours of expected delivery time; also submission of a form confirming receipt is required within two business days of receipt of a select agent or toxin.

The amendment published on March 18, 2005 (70 FR 13316), which conformed this section to the new 42 CFR 73, is no longer necessary, and is removed.

Section 72.5 Requirements; Variations

This section allowed the Director of HHS to approve variations in requirements if protection remains equivalent. No variations have been approved that DOT has not also approved. Removal of the rule eliminates the basis of necessity for the Director of HHS to have such authority.

Section 72.6 Additional Requirements for Facilities Transferring or Receiving Select Agents

This entire section, 72.6(a)–(j), was replaced or amended by publication by HHS in the **Federal Register** of 42 CFR 73, ''Possession, Use, and Transfer of Select Agents and Toxins,'' as Interim Final Rules on December 13, 2002 (67 FR 76886), and November 3, 2003 (68 FR 62245), and as a Final Rule on March 18, 2005 (70 CFR 13294), with an effective date of April 18, 2005.

These rulemakings also replaced the list of agents at ''Appendix A to Part 72—Select Agents,'' as well as the ''Exemptions'' section following the Appendix.

The amendments published on March 18, 2005 (70 FR 13316), which conformed section 72.6(h) and Appendix A to 42 CFR 73, are no longer needed, and would be removed by this notice of proposed rulemaking.

Section 72.7. Penalties

Penalties were specified for violations of this part, with stronger penalties for violations related to select agents. Similar penalties for violations of provisions of part 73 related to select agents have been specified by revision to 42 CFR Part 1003—Civil Money Penalties, Assessments and Exclusions. The DOT regulations provide for penalty for non-compliance, as do ICAO and other entities with instructions or regulations regarding transport of infectious substances.

Authority

The HHS regulation of the interstate transfer of etiologic agents is based on the general authority found in Section 264 of Title 42, United States Code, Regulations to Control Communicable Diseases, in Part G, Quarantine and Inspection.

Regulatory Analyses

Rescinding Part 72 reduces the regulatory burden on affected entities. The DOT Hazardous Materials Transportation regulations and the HHS Select Agent regulations already apply, and shippers are following them. DOT and HHS have completed the required analyses for rules that supersede the rule being removed, and which are already in effect. Eliminating this Federal regulation will be beneficial to the regulated community by alleviating confusion and duplication.

HHS does not anticipate the proposed removal to have any impact on other

Federal programs involved in transport of materials that are reasonably believed to contain infectious substances, such as the HHS/CDC Import Permit Program; the HHS/CDC Clinical Laboratories Improvement Program; the HHS/CDC Select Agent Program; and various research programs of HHS/NIH and HHS/FDA and other Agencies. Agencies will need to review and update references in their guidance and regulating documents.

Paperwork Reduction Act

This notice of proposed rulemaking does not impose any new information-collection requirements, and does not invoke any issues that make it subject to the Paperwork Reduction Act.

The only impact of removal of 42 CFR 72 is to reduce burden. It eliminates specification for a second label to be attached to the outer shipping container. This label is no longer needed since it duplicates the label recommended by the UN Model Regulations, and adopted by DOT and other organizations (such as ICAO, IATA, and the U.S. Postal Service) that govern shipments of infectious substances.

Impact of paperwork previously involved with sections that dealt with notice of delivery or failure to receive (72.4) is insignificant because HHS has rarely received such paperwork.

Executive Order 12866 and Regulatory Flexibility Act

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined, and the regulatory action has been deemed to be ''not a significant regulatory action'' under the Executive Order because removal of this regulation is not likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Regulatory Flexibility Act

HHS does not anticipate that this notice of proposed rule making will have any economic impact on small businesses and other small entities.

Unfunded Mandates

This notice of proposed rulemaking imposes no mandates, and will not result in any expenditure burden, on State, local, or tribal governments.

Executive Order 12988

This notice of proposed rulemaking includes no provisions that would lead to burden on the court system.

Executive Order 13132

This notice of proposed rulemaking does not propose any regulation that would preempt State, local and Indian tribe requirements, or that would have any substantial direct effects on the States, relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Environmental Assessment

This notice of proposed rule making is not a major regulatory action, and will not result in any impact on the environment; transport of infectious substances across State lines is comprehensively covered by existing regulations of other Agencies.

List of Subjects in 42 CFR Part 72

Biologics, Hazardous materials transportation, Packaging and containers, Penalties, Transportation.

For the reasons set forth in the preamble under the authority of 42 U.S.C. 264, 271; 31 U.S.C. 9701; 18 U.S.C. 3559, 3571, and 42 U.S.C. 262 note, the Department of Health and Human Services proposes to amend title 42 (Public Health) of the Code of Federal Regulations by removing part 72 (Interstate Shipment of Etiologic Agents).

PART 72—[REMOVED AND RESERVED]

Dated: July 21, 2006.

Julie Louise Gerberding,

Director, Centers for Disease Control and Prevention.

Dated: August 21, 2006.

Michael O. Leavitt,

Secretary.

Editorial Note: This document was received at the Office of the Federal Register on December 15, 2006.

[FR Doc. E6–21723 Filed 12–29–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 110206A]

RIN 0648–AU86

Atlantic Highly Migratory Species (HMS); U.S. Atlantic Swordfish Fishery Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of public hearings.

SUMMARY: NMFS published a proposed rule on November 28, 2006, to amend regulations governing the U.S. Atlantic swordfish fishery that would provide a reasonable opportunity for U.S. vessels to more fully harvest the domestic U.S. North Atlantic swordfish quota. This notice announces the dates, locations, and times of seven public hearings to obtain public comment on the proposed rule. Comments received at these hearings will assist NMFS in selecting management measures to more fully utilize the International Commission on the Conservation of Atlantic Tunas (ICCAT)-recommended U.S. North Atlantic swordfish quota in recognition of the improved stock status of North Atlantic swordfish. These public hearings will be combined with scoping meetings on potential shark management measures that require an amendment to the Consolidated Atlantic Highly Migratory Species Fishery Management Plan (HMS FMP). Notice of the shark scoping meetings is published today in a separate **Federal Register** document.

DATES: Public hearings will be held in January 2007. For specific dates and times, see **SUPPLEMENTARY INFORMATION**.

As published on November 28, 2006 (71 FR 68784), written comments on the proposed rule must be received no later than 5 p.m. January 31, 2007.

ADDRESSES: Public hearings will be held in Madeira Beach, FL; Fort Pierce, FL; Destin, FL; Manteo, NC; Houma, LA; Gloucester, MA; and Manahawkin, NJ. See **SUPPLEMENTARY INFORMATION** for details.

As published on November 28, 2006 (71 FR 68784), written comments on the proposed rule should be mailed to Sari Kiraly, Highly Migratory Species Management Division by any of the following methods:

- E-mail: *SF1.110206A@noaa.gov*. Include in the subject line the following identifier: ''I.D. 110206A.''
- Written: 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope ''Comments on Swordfish Revitalization Proposed Rule.''
- Fax: (301) 713–1917.
- Federal e-Rulemaking Portal: *http://www.regulations.gov*.

Copies of the Draft Environmental Assessment, proposed rule, the 2006 Consolidated HMS FMP and other relevant documents are available from the Highly Migratory Species Management Division website at *http://www.nmfs.noaa.gov/sfa/hms* or by contacting Sari Kiraly (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Sari Kiraly at (301) 713–2347, Michael Clark at (301) 713–2347, or Richard Pearson (727) 824–5399.

SUPPLEMENTARY INFORMATION: The Atlantic swordfish fishery is managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Tunas Convention Act. The Consolidated HMS FMP is implemented by regulations at 50 CFR part 635.

On November 28, 2006 (71 FR 68784), NMFS published a proposed rule that summarized options that may increase opportunities for U.S. vessels to fully harvest the ICCAT-recommended U.S. North Atlantic swordfish quota. That proposed rule would increase swordfish retention limits for incidental swordfish permit holders, and modify recreational swordfish retention limits for HMS Charter/Headboat and Angling category permit holders. The proposed rule would also modify HMS limited access vessel upgrading restrictions for pelagic longline (PLL) vessels. These actions would address persistent underharvests of the domestic swordfish quota, while continuing to minimize bycatch to the extent practicable, so that swordfish are harvested in a sustainable, yet economically viable manner. The comment period on the proposed rule ends on January 31, 2007.

Request for Comments

Seven public hearings will be held in January 2007 to provide the public an opportunity to comment on proposed swordfish management measures (November 28, 2006; 71 FR 68784) to be included in the upcoming final rule. These public hearings will be held in conjunction with scoping meetings for an amendment to the HMS FMP to gather comments on implementing future shark management measures. Information regarding the scoping meetings for potential shark management measures is published today in a separate **Federal Register** notice. The time allotted to swordfish and shark management measures will be distributed accordingly to provide ample opportunity for the public to comment on both topics. Time may be split equally or additional time may be allotted to either shark or swordfish measures, as necessary, depending on the attendees' primary interests.

Hearing Dates, Times, and Locations

Public hearings for the November 28, 2006 (71 FR 68784) proposed rule are scheduled as follows:

1. Wednesday, January 17, 2007, 6–9 p.m. Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930.
2. Thursday, January 18, 2007, 6–9 p.m. City of Madeira Beach, 300 Municipal Drive, Madeira Beach, FL 33708.
3. Thursday, January 18, 2007, 6–9 p.m. Manahawkin Public Library, 129 North Main Street, Manahawkin, NJ 08050.
4. Tuesday, January 23, 2007, 6–9 p.m. Destin Community Center, 101 Stahlman Avenue, Destin, FL 32541.
5. Thursday, January 25, 2007, 6–9 p.m. Bayou Black Recreational Center, 3688 Southdown Mandalay Road, Houma, LA 70360.
6. Tuesday, January 30, 2007, 6–9 p.m. Fort Pierce Library, 101 Melody Lane, Fort Pierce, FL 34950.
7. Wednesday, January 31, 2007, 6–9 p.m. Manteo Town Hall, 407 Budleigh Street, Manteo, NC 27954.

Public Hearings Code of Conduct

The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each hearing, a representative of NMFS will explain the ground rules (e.g., alcohol is prohibited from the hearing room; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The NMFS representative will attempt to structure the hearing so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and, if they do not, they will be asked to leave the hearing.

Special Accommodations

The hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Michael Clark (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days prior to the hearing.

Authority: 16 U.S.C *et seq.*; 16 U.S.C. 1801 *et seq.*

Dated: December 26, 2006.

Karyl K. Brewster-Geisz,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–22512 Filed 12–29–06; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 72, No. 1

Wednesday, January 3, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Rehabilitation of Floodwater Retarding Structure No. 8 of the Poteau River Watershed, Scott County, AR

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the rehabilitation of Floodwater Retarding Structure No. 8 of the Poteau River Watershed, Scott County, Arkansas.

FOR FURTHER INFORMATION CONTACT: Kalven L. Trice, State Conservationist, Natural Resources Conservation Service, Rm. 3416 Federal Building, 700 West Capital Avenue, Little Rock, AR 72201–3225; Telephone (501) 301–3100.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Kalven L. Trice, State Conservationist, has determined that preparation and review of an environmental impact statement is not needed for this project.

The project will rehabilitate Floodwater Retarding Structure (FWRS) No. 8 to maintain the present level of flood control benefits and comply with the current dam safety and performance standards.

Rehabilitation of FWRS No. 8 will require the dam to be modified to meet current performance and safety standards for a high hazard dam. The modification will consist of widening the auxiliary spillway from 150 to 225 feet, and raising the top of dam from elevation 707.5 to elevation 708.5 to safely pass the probable maximum flood. All disturbed areas will be planted with plants that have wildlife values. The proposed work will not affect any prime farmland, endangered or threatened species, wetlands, or cultural resources.

Federal assistance will be provided under authority of the Small Watershed Rehabilitation Amendments of 2000 (Section 313, Pub. L. 106–472). Total project cost is estimated to be $364,000, of which $265,600 will be paid from the Small Watershed Rehabilitation funds and $99,000 from local funds.

The notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Kalven L. Trice, State Conservationist.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: December 21, 2006.

Kalven L. Trice,

State Conservationist.

[FR Doc. E6–22500 Filed 12–29–06; 8:45 am]

BILLING CODE 3410–16–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Washington, DC, Tuesday and Wednesday, January 9–10, 2007, at the times and location noted below.

DATES: The schedule of events is as follows:

Tuesday, January 9, 2007

9 a.m.–10 a.m. Briefing on New Financial Disclosure Report .

10 a.m.–Noon Planning and Evaluation Committee.

1:30 p.m.–2 p.m. Budget Committee.

2 p.m.–3:30 p.m. Technical Programs Committee.

3:30 p.m.–5 p.m. Passenger Vessels Guidelines Ad Hoc Committee (Closed Session).

Wednesday, January 10, 2007

9 a.m.–Noon Transportation Vehicles Information Meeting.

1:30 p.m.–3 p.m. Board Meeting.

ADDRESSES: All meetings will be held at The Madison Hotel, 1177 15th Street, NW., Washington, DC, 20005.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–0001 (voice) and (202) 272–0082 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items:

- Approval of the November 2006 draft Board Meeting Minutes.
- Planning and Evaluation Committee Report.
- Budget Committee Report.
- Technical Programs Committee Report.
- Committee of the Whole Report.
- Passenger Vessels Guidelines Ad Hoc Committee Report.

All meetings are accessible to persons with disabilities. An assistive listening system, computer assisted real-time transcription (CART), and sign language interpreters will be available at the Board meetings. Persons attending Board meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants.

James J. Raggio,

General Counsel.

[FR Doc. E6–22480 Filed 12–29–06; 8:45 am]

BILLING CODE 8150–01–P

ARCTIC RESEARCH COMMISSION

[USARC 06–142]

Notice of 82nd Meeting

DATE: December 21, 2006.

Notice is hereby given that the U.S. Arctic Research Commission will hold its 82nd meeting in Anchorage, AK on January 24–25, 2007. The Business Session, open to the public, will convene at 12:30 p.m. Wednesday, January 24, 2007 in Anchorage. An Executive Session will follow adjournment of the Business Session.

The Agenda items include:

(1) Call to order and approval of the Agenda.

(2) Approval of the Minutes of the 81st Meeting.

(3) Reports from Congressional Liaisons.

(4) Agency Reports.

The focus of the meeting will be reports and updates on programs and research projects affecting the Arctic.

Any person planning to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs.

Contact Person for More Information: John Farrell, Executive Director, US Arctic Research Commission, 703–525–0111 or TDD 703–306–0090.

John Farrell,

Executive Director.

[FR Doc. 06–9942 Filed 12–29–06; 8:45 am]

BILLING CODE 7555–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4697.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 (2004) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

OPPORTUNITY TO REQUEST A REVIEW:

Not later than the last day of January 2007,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in January for the following periods:

Antidumping Duty Proceedings	Period
BRAZIL: Prestressed Concrete Steel Wire Strand.	
A–351–837	1/1/06 - 12/31/06
INDIA: Prestressed Concrete Steel Wire Strand.	
A–533–828	1/1/06 - 12/31/06
MEXICO: Prestressed Concrete Steel Wire Strand.	
A–201–831	1/1/06 - 12/31/06
SOUTH AFRICA: Ferrovanadium.	
A–791–815	1/1/06 - 12/31/06
SOUTH KOREA: Prestressed Concrete Steel Wire Strand.	
A–580–852	1/1/06 - 12/31/06
SOUTH KOREA: Top–of-the Stove Stainless Steel Cooking Ware.	
A–580–601	1/1/06 - 12/31/06
THAILAND: Prestressed Concrete Steel Wire Strand.	
A–549–820	1/1/06 - 12/31/06
THE PEOPLE'S REPUBLIC OF CHINA: Crepe Paper Products.	
A–570–895	1/1/06 - 12/31/06
THE PEOPLE'S REPUBLIC OF CHINA: Ferrovanadium.	
A–570–873	1/1/06 - 12/31/06
THE PEOPLE'S REPUBLIC OF CHINA: Folding Gift Boxes.	
A–570–866	1/1/06 - 12/31/06
THE PEOPLE'S REPUBLIC OF CHINA: Potassium Permanganate.	
A–570–001	1/1/06 - 12/31/06
THE PEOPLE'S REPUBLIC OF CHINA: Wooden Bedroom Furniture.	
A–570–890	1/1/06 - 12/31/06
Countervailing Duty Proceedings.	
SOUTH KOREA: Top–of-the–Stove Stainless Steel Cooking Ware.	
C–580–602	1/1/06 - 12/31/06
Suspension Agreements.	
RUSSIA: Certain Cut–to-Length Carbon Steel.	
A–821–808	1/1/06 - 12/31/06

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. The Department changed its requirements for requesting reviews for countervailing duty orders. For both antidumping and countervailing duty reviews, the

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order–by-order basis, which exporter(s) the request is intended to cover.

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. See also the Import Administration web site at *http://ia.ita.doc.gov*.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Operations, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of January 2007. If the Department does not receive, by the last day of January 2007, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the U.S. Customs and Border Protection to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered. This notice is not required by statute but is published as a service to the international trading community.

Dated: December 21, 2006.

Gary Taverman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–22488 Filed 12–29–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-year (''Sunset'') Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating a five-year (''Sunset Review'') of the antidumping and countervailing duty orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-year Review* which covers this same order.

EFFECTIVE DATE: January 3, 2007.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the Initiation of Review(s) section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW, Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3 - *Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Initiation of Reviews

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping and countervailing duty orders:

DOC Case No.	ITC Case No.	Country	Product	Department Contact
A–427–818	731–TA–909	France	Low Enriched Uranium	Dana Mermelstein (202) 482–1904
C–427–819	701–TA–409	France	Low Enriched Uranium	Brandon Farlander (202) 482–0182
Suspended Investigations.				
No suspended investigations are scheduled for initiation in January 2007..				

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the Department's regulations regarding Sunset Reviews (19 CFR 351.218) and *Sunset Policy Bulletin*, the Department's schedule of Sunset Reviews, case history information (*i.e.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists available to the public on the Department's sunset Internet website at the following address: ''*http://ia.ita.doc.gov/sunset/*.'' All submissions in these Sunset Reviews must be filed in accordance

[2] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required from Interested Parties

Domestic interested parties (defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in these Sunset Reviews must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the orders without further review. *See* 19 CFR 351.218(d)(1)(iii).

For sunset reviews of countervailing duty orders, parties wishing the Department to consider arguments that countervailable subsidy programs have been terminated must include with their substantive responses information and documentation addressing whether the changes to the program were (1) limited to an individual firm or firms and (2) effected by an official act of the government. Further, a party claiming program termination is expected to document that there are no residual benefits under the program and that substitute programs have not been introduced. *Cf.* 19 CFR 351.526(b) and (d). If a party maintains that any of the subsidies countervailed by the Department were not conferred pursuant to a subsidy program, that party should nevertheless address the applicability of the factors set forth in 19 CFR 351.526(b) and (d). Similarly, parties wishing the Department to consider whether a company's change in ownership has extinguished the benefit from prior non–recurring, allocable, subsidies must include with their substantive responses information and documentation supporting their claim that all or almost all of the company's shares or assets were sold in an arm's length transaction, at a price representing fair market value, as described in the *Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act*, 68 FR 37125 (June 23, 2003) (Modification Notice). See Modification Notice for a discussion of the types of information and documentation the Department requires.

If we receive an order–specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order–specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: December 21, 2006.

Gary Taverman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–22489 Filed 12–29–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Upcoming Sunset Reviews

SUPPLEMENTARY INFORMATION:

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended, the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for February 2007

The following Sunset Reviews are scheduled for initiation in February 2007 and will appear in that month's Notice of Initiation of Five-year Sunset Reviews.

Antidumping Duty Proceedings	Department Contact
Stainless Steel Bar from France (A–427–820)	Brandon Farlander (202) 482–0182
Stainless Steel Bar from Germany (A–428–830)	Brandon Farlander (202) 482–0182
Stainless Steel Bar from Italy(A–475–829)	Brandon Farlander (202) 482–0182
Stainless Steel Bar from South Korea (A–580–847)	Brandon Farlander (202) 482–0182
Stainless Steel Bar from United Kingdom (A–412–822)	Brandon Farlander (202) 482–0182

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

Countervailing Duty Proceedings	
Stainless Steel Bar from Italy (C–475–830)	Brandon Farlander (202) 482–0182
Suspended Investigations	
No suspended investigations are scheduled for initiation in February 2007.	

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin''). The Notice of Initiation of Five-year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Puruant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 15 days of the publication of the Notice of Initition.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: December 21, 2006.

Gary Taverman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–22491 Filed 12–29–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–580–816)

Corrosion–Resistant Carbon Steel Flat Products from Korea: Extension of Time Limits for the Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Victoria Cho at (202) 482–5075, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On September 28, 2005, the U.S. Department of Commerce (''Department'') published a notice of initiation of the administrative review of the antidumping duty order on corrosion–resistant carbon steel flat products from Korea, covering the period August 1, 2004 to July 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005). On September 11, 2006, the Department published the preliminary results of this review. *See Certain Corrosion–Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53370 (September 11, 2006). The final results of this review are currently due no later than January 9, 2007.

Extension of Time Limit of Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to issue final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within that time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the final results to a maximum of 180 days. *See also* 19 CFR 351.213(h)(2).

We determine that it is not practicable to complete the final results of this review within the original time limit because we need additional time to evaluate arguments and information submitted by the parties with respect to model–match methodology, indirect selling expenses, constructed export price offsets and duty drawback. Therefore, the Department is extending fully the time limit for the final results of the above–referenced review. As that date falls on a Saturday, the final results will be due no later than the next business day, Monday, March 12, 2007.

This extension is in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: December 22, 2006.

Gary Taverman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–22495 Filed 12–29–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests from interested parties, the Department of Commerce (the Department) is conducting the fourth administrative review of the antidumping duty order on honey from the People's Republic of China (PRC). The period of review (POR) is December 1, 2004, through November 30, 2005. We preliminarily determine that four companies have failed to cooperate by not acting to the best of their ability to comply with our requests for information and, as a result, should be assigned a rate based on adverse facts available. We have also preliminarily determined that a fifth respondent made sales to the United

States of the subject merchandise at prices below normal value.

We invite interested parties to comment on these preliminary results. Parties that submit comments are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument(s).

EFFECTIVE DATE: January 3, 2007.

FOR FURTHER INFORMATION CONTACT: Judy Lao or Helen Kramer, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–7924 or (202) 482–0405, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 2005, the Department published an *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request an Administrative Review*, 70 FR 72109 (December 1, 2005). On December 29, 2005, Jinfu Trading Co., Ltd. (Jinfu) and Wuhan Shino–Food Trade Co., Ltd. (Shino–Food), requested, in accordance with section 351.213(b) of the Department's regulations, an administrative review of entries of subject merchandise made during the POR. Also on December 29, 2005, Tianjin Eulia Honey Co., Ltd. (Eulia), Cheng Du Wai Yuan Bee Products Co., Ltd. (Chengdu Waiyuan), and Kunshan Xin'an Trade Co., Ltd. (Kunshan Xin'an) requested that the Department conduct an administrative review of each respective company's entries during the POR.

On December 30, 2005, the American Honey Producers Association and the Sioux Honey Association (collectively, petitioners), requested, in accordance with 19 C.F.R. § 351.213(b), an administrative review of entries of subject merchandise made during the POR by 25 Chinese producers/exporters.[1]

Also on December 30, 2005, Anhui Honghui Foodstuff (Group) Co., Ltd. (Anhui Honghui) and Jiangsu Kanghong Natural Healthfoods Co., Ltd. (Jiangsu), requested, in accordance with section 19 C.F.R. § 351.213(b), an administrative review of entries of subject merchandise made during the POR.

On February 1, 2006, the Department initiated an administrative review of 27 Chinese companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 71 FR 5241 (February 1, 2006). On February 2, 2006, Anhui Native Produce Import and Export Corporation submitted a no–shipments letter to the Department requesting that the administrative review as to the company be rescinded. On February 13, 2006, petitioners withdrew their review request for Wuhan Bee Healthy Co., Ltd. On February 23, 2006, petitioners filed a letter withdrawing their review request for Eurasia, Foodworld, Henan, High Hope, Inner Mongolia, Inner Mongolia Youth, Kunshan, Shanghai Shinomiel, Shanghai Xiuwei, Dubao, Wuhu Qinshi Tangye, and Zhejiang Willing Foreign Trading Co., Ltd. On February 27, 2006, Shanghai Eswell Enterprise Co., Ltd. (Eswell) submitted a no–shipments letter to the Department requesting rescission of its administrative review.

On February 28, 2006, the Department issued antidumping duty questionnaires to nine PRC producers/exporters of the subject merchandise covered by this administrative review. On March 6, 2006, the Department issued an antidumping duty questionnaire to Apiarist Co.

On March 7, 2006, Zhejiang Native Produce and Animal By–Products Import & Export Group Corp. (Zhejiang) and its affiliates, including Zhejiang Willing Foreign Trading Co., Ltd., submitted a no–shipments letter to the Department requesting rescission of its administrative review.[2] On March 9, 2006, both Chengdu Waiyuan and Kunshan Xin'an withdrew their requests for administrative review, stating that neither company intended to participate in the proceeding. On March 10, 2006, Anhui Honghui, Jiangsu and Shino–Food submitted their respective quantity and value responses to the Department's questionnaire. On March 13, 2006, Jinfu submitted a no–shipments letter to the Department requesting rescission of its administrative review.

On March 20, 2006, Shino–Food submitted its section A response, and the exhibits for its section A response on March 23, 2006. The exhibits were submitted one day past the deadline for submission. *See* the Department's March 22, 2006, Memorandum to the File.

On March 31, 2006, petitioners met with the Department to discuss issues in the present administrative review and to notify the Department that they had not been served with copies of Shino–Food's section A response. *See* the Department April 3, 2006, Memorandum to the File. On April 3, 2006, the Department submitted a Memorandum to the File in which it explained that only three respondents (Anhui Honghui, Jiangsu, and Shino–Food) are participating in this administrative review (*i.e.*, have not submitted no–shipment letters or letters indicating they did not intend to participate in the administrative review). *See* the Department's April 3, 2006, Memorandum to the File. Accordingly, the Department explained that it would not engage in a respondent selection process. On April 4, 2006, both Anhui Honghui and Jiangsu submitted their responses to section A of the Department's questionnaire. On April 7, 2006, petitioners withdrew their review request for Anhui Native Produce Import & Export Corp., Apiarist Co., Eswell, Zhejiang, and Jinfu.

On April 17, 2006, the Department sent a memorandum to the Department's Office of Policy requesting a list of surrogate countries to be used in this proceeding, and received a memorandum containing the Office of Policy's potential surrogate countries on April 20, 2006.[3]

On April 19, 2006, the Department issued supplemental sections A, C, and D questionnaires to Shino–Food. On April 27, 2006, petitioners submitted comments on Shino–Food's, March 20, 2006, section A, and April 3, 2006, sections C, and D questionnaire responses. On May 1, 2006, Anhui Honghui and Jiangsu submitted their respective responses to sections C and D

[1] The request included: Inner Mongolia Autonomous Region Native Produce and Animal By-Products Import & Export Corp. (Inner Mongolia); Kunshan Foreign Trading Company (Kunshan); Zhejiang Native Produce and Animal By-Products Import & Export Corp. aka Zhejiang Native Produce and Animal By-Products Import & Export Group Corp.; High Hope International Group Jiangsu Foodstuffs Import & Export Corp. (High Hope); Shanghai Eswell Enterprise Co., Ltd.; Anhui Native Produce Import & Export Corp.; Henan Native Produce Import & Export Corp. (Henan); Inner Mongolia Autonomous Region Native Produce and Animal By-Products; Shanghai Xiuwei International Trading Co., Ltd. (Shanghai Xiuwei); Sichuan-Dujiangyan Dubao Bee Industrial Co., Ltd. (Dubao); Wuhan Bee Healthy Company, Ltd.; Jinfu Trading Co., Ltd.; Shanghai Shinomiel International Trade Corporation (Shanghai Shinomiel); Anhui Honghui Foodstuff (Group) Co., Ltd.; Cheng Du Wai Yuan Bee Products Co., Ltd.; Eurasia Bee's Products Co., Ltd. (Eurasia); Foodworld International Club, Ltd. (Foodworld); Inner Mongolia Youth Trade Development Co., Ltd. (Inner Mongolia Youth); Apiarist Co.; Kunshan Xin'an Trade Co., Ltd.; Shanghai Taiside Trading Co., Ltd.; Wuhan Shino-Food Trade co., Ltd.; Wuhu Qinshi Tangye; Zhejiang Willing Foreign Trading Co., Ltd.; and Jiangsu Kanghong Natural Healthfoods Co., Ltd.

[2] On March 9, 2006, Zhejiang submitted a letter clarifying that it intended to include a request for rescission for both itself and its affiliates, including Zhejiang Willing Foreign Trading Co., Ltd., in its March 7, 2006, letter.

[3] The Department notes that a separate memorandum from the Office of Policy was sent on April 24, 2006, to Office 7 Program Manager Abdelali Elouaradia to account for the different period of review for Eulia.

of the Department's supplemental questionnaires.

On May 4, 2006, Shino–Food submitted its response to the Department's April 19, 2006, supplemental questionnaire. On June 17, 2006, Shino–Food submitted its response to the Department's June 9, 2006, supplemental questionnaire. On June 26, 2006, Anhui Honghui submitted its response to the Department's June 8, 2006, supplemental questionnaire. On June 27, 2006, Jiangsu submitted a withdrawal letter to the Department in which it explained that it would no longer participate in the administrative review. On July 27, 2006, Anhui Honghui submitted comments on surrogate information with which to value the factors of production in this proceeding. On June 30 and July 30, 2006, Shino–Food submitted letters to the Department stating that due to the unavailability of its general manger, it would not be able to participate in verification during any of the times proposed by the Department. *See* ''Use of Facts Otherwise Available and the PRC–Wide Rate'' section below for a complete discussion of Shino–Food.

On August 10, 2006, petitioners submitted comments premised on the Department's verification of Anhui Honghui, which did not occur. On the same date, Anhui Honghui submitted its sales reconciliation. On August 16, 2006, the Department published an extension of the time limits to complete these preliminary results. *See Honey from the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 71 FR 47170 (August 16, 2006).

On September 8, 2006, the Department issued a second supplemental questionnaire to Anhui Honghui, to which Anhui Honghui responded on September 29, 2006. On November 13, 2006, the Department again extended the time limits for the preliminary results. In the same publication the Department also aligned the POR of the current new shipper reviews with this administrative review. *See Honey from the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review and New Shipper Reviews*, 71 FR 66165 (November 13, 2006). On November 30, 2006, the Department submitted a surrogate country selection memorandum to the file. *See* the Department's November 30, 2006, Memorandum to the File. On December 4, 2006, the Department put on the record of the present administrative review certain factors of production contained on the record of the current new shipper reviews of honey from the PRC. *See* the Department's December 4, 2006, Memorandum to the File.

Scope of the Antidumping Duty Order

The products covered by this order are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The merchandise subject to this order is currently classifiable under subheadings 0409.00.00, 1702.90.90, and 2106.90.99 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise under order is dispositive.

Preliminary Partial Rescission of Administrative Review

As explained above, Anhui Native Produce Import & Export Corp., Eswell, Zhejiang, and Jinfu (collectively, ''the four companies'') all submitted no–shipment letters to the Department in which they requested rescission from this administrative review. To determine whether the four companies made shipments during the POR, the Department examined PRC honey shipment data maintained by U.S. Customs and Border Protection (CBP). Based on the information obtained from CBP, we found no entries of subject merchandise during the POR manufactured or exported by the four companies to the United States. Therefore, pursuant to 19 C.F.R. § 351.213(d)(3), the Department is preliminarily rescinding this review with respect to the four companies.

Additionally, as explained above, on February 23, 2006, pursuant to 19 C.F.R. § 351.213(d)(1), petitioners withdrew their review requests for the following 13 companies: Eurasia, Foodworld, Henan, High Hope, Inner Mongolia[4], Inner Mongolia Youth, Kunshan, Shanghai Shinomiel, Shanghai Taiside Trading Co., Ltd., Shanghai Xiuwei, Dubao, Wuhun Qinshi Tangye, and Zhejiang Willing Foreign Trading Co., Ltd. In addition, on April 7, 2006, also pursuant to 19 C.F.R. § 351.213(d)(1), petitioners withdrew their review request for Apiarist Co.

Because petitioners submitted their requests for withdrawal of review within the 90-day deadline mandated by 19 C.F.R. § 351.213(d)(1), and no other party requested a review for these companies, the Department is preliminarily rescinding this administrative review with respect to the 14 companies listed above.

Separate Rates

In proceedings involving non–market economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to its export activities. In this review Anhui Honghui submitted information in support of its claim for a company–specific rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 at Comment 1 (May 6, 1991) (*Sparklers*), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586–7 (May 2, 1994) (*Silicon Carbide*). The Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

Anhui Honghui provided complete separate–rate information in its responses to our original and supplemental questionnaires. Accordingly, we performed a separate–rates analysis to determine whether this exporter is independent from government control.

For the reasons discussed below in the section titled ''The Use of Facts Otherwise Available and PRC–wide Rate,'' we have preliminarily determined that Jiangsu, Shino–Food, Chengdu Waiyuan, and Kunshan Xin'an do not qualify for a separate rate and are instead part of the PRC–wide entity.

[4] The Department notes that while petitioners requested a review for Inner Mongolia Autonomous Region Native Produce and Animal By-Products Import & Export Corp., and Inner Mongolia Autonomous Region Native Produce and Animal By-Products separately, both names refer to the same company.

Absence of *De Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20589. As discussed below, our analysis shows that the evidence on the record supports a preliminary finding of *de jure* absence of government control for Anhui Honghui based on each of these factors.

Anhui Honghui has placed on the record a number of documents to demonstrate absence of *de jure* control, including the ''Company Law of the People's Republic of China'' (December 29, 1993) (*Company Law*), the ''Foreign Trade Law of the People's Republic of China'' (May 12, 1994) (*Foreign Trade Law*), the revised Foreign Trade Law (April 6, 2004), and ''Administrative Regulations of the People's Republic of China Governing the Registration of Legal Corporations'' (June 3, 1988) (*Legal Corporations Regulations*). *See* Exhibit 3 of Anhui Honghui's April 4, 2006, submission (section A response). Anhui Honghui also submitted a copy of its business license in Exhibit 4 of its section A response. The Feidong County Industrial and Commercial Administration Bureau issued this license. Anhui Honghui explains that its business license defines the scope of the company's business activities and ensures the company has sufficient capital to continue its business operations. Anhui Honghui affirms that its business operations are limited to the scope of the license, although the license can be amended if the company wishes to expand the scope of its operations, and that the license may be revoked if the company has insufficient capital, or engages in activities outside the scope of its business. Further, Anhui Honghui states that the license must be renewed or reviewed annually, and to obtain a renewal, it must apply for a renewal and provide a copy of its most recent financial statements to the issuing authority.

We note that Anhui Honghui states that it is governed by the *Company Law*, which it claims governs the establishment of limited liability companies and provides that such a company shall operate independently and be responsible for its own profits and losses. Anhui Honghui has placed on the record the *Foreign Trade Law* and stated that this law allows it full autonomy from the central authority in governing its business operations. We have reviewed Article 11 of Chapter II of the *Foreign Trade Law*, which states, ''foreign trade dealers shall enjoy full autonomy in their business operation and be responsible for their own profits and losses in accordance with the law.'' As in prior cases, we have analyzed such PRC laws and found that they establish an absence of *de jure* control. *See, e.g., Pure Magnesium from the People's Republic of China: Final Results of New Shipper Review*, 63 FR 3085, 3086 (January 21, 1998) and *Preliminary Results of New Shipper Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 30695, 30696 (June 7, 2001), as affirmed in *Final Results of New Shipper Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 45006 (August 27, 2001). Therefore, we preliminarily determine that there is an absence of *de jure* control over the export activities of Anhui Honghui.

Absence of *De Facto* Control

Typically, the Department considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the export prices are set by, or subject to, the approval of a government authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide*, 59 FR at 22587. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control, which would preclude the Department from assigning separate rates.

Anhui Honghui has asserted the following: (1) it is a privately owned company; (2) there is no government participation in its setting of export prices; (3) its general manager has the authority to bind sales contracts; (4) the company's executive director appoints the company's management and it does not have to notify government authorities of its management selection; (5) there are no restrictions on the use of its export revenue; and (6) its executive director decides how profits will be used. We have examined the documentation provided and note that it does not suggest that pricing is coordinated among exporters of PRC honey.

Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over Anhui Honghui's export activities, we preliminarily determine that Anhui Honghui has met the criteria for the application of a separate rate.

Use of Facts Otherwise Available and the PRC–Wide Rate

Anhui Honghui, Shino–Food, Jiangsu, Chengdu Waiyuan, and Kunshan Xin'an were given the opportunity to respond to the Department's questionnaires. As explained above, we received complete questionnaire responses only from Anhui Honghui and we have calculated a separate rate for this company. The PRC–wide rate applies to all entries of subject merchandise except for entries from PRC producers/exporters that have their own calculated rate.

Shino–Food, Jiangsu, Chengdu Waiyuan, and Kunshan Xin'an are appropriately considered to be part of the PRC–wide entity because they failed to establish their eligibility for a separate rate. Because the PRC–wide entity did not provide requested information necessary to the instant proceeding, it is necessary that we review the PRC–wide entity. In doing so, we note that section 776(a)(1) of the Tariff Act of 1930, as amended, (the Act), mandates that the Department use the facts available if necessary information is not available on the record of an antidumping proceeding. In addition, section 776(a)(2) of the Act provides that if an interested party or any other person: (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title. Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department shall promptly inform the party submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that party with an

opportunity to remedy or explain the deficiency. Section 782(d) of the Act additionally states that if the party submits further information that is unsatisfactory or untimely, the administering authority may, subject to subsection (e), disregard all or part of the original and subsequent responses. Section 782(e) of the Act provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority if: (1) the information is submitted by the deadline established for its submission; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority with respect to the information; and (5) the information can be used without undue difficulties.

The Department finds that the PRC–wide entity (including Shino–Food, Jiangsu, Chengdu Waiyuan, and Kunshan Xin'an) did not respond to our request for information and that necessary information either was not provided, or the information provided cannot be verified and is not sufficiently complete to enable the Department to use it for these preliminary results. Therefore, we find it necessary, under section 776(a)(2) of the Act, to use facts otherwise available as the basis for the preliminary results of this review for the PRC–wide entity.

As stated above in the ''Background'' section, on December 29, 2005, Chengdu Waiyuan and Kunshan Xin'an requested an administrative review. On December 30, 2005, petitioners requested a review with respect to these two companies. On March 9, 2006, both Chengdu Waiyuan and Kunshan Xin'an withdrew their requests for administrative review, stating that neither company intended to participate in this administrative review. In their February 23, 2006, and April 7, 2006, withdrawal of review request letters, petitioners did not withdraw their request for review with respect to either Chengdu Waiyuan or Kunshan Xin'an.[5] Chengdu Waiyuan and Kunshan Xin'an failed to respond to the Department's antidumping questionnaires. The Department has no information on the record for Chengdu Waiyuan and Kunshan Xin'an with which to calculate a dumping margin or determine if either is eligible for a separate rate in this proceeding; therefore, we find that Chengdu Waiyuan and Kunshan Xin'an have significantly impeded the proceeding, pursuant to sections 776(a)(2)(A) and 776(a)(2)(B) of the Act. Because Chengdu Waiyuan and Kunshan Xin'an did not respond to the Department's questionnaires, sections 782(d) and (e) of the Act are not applicable.

As stated above in the ''Background'' section, Shino–Food and Jiangsu responded to the Department's initial antidumping questionnaire, with Shino–Food responding to two subsequent supplemental questionnaires. With regard to Shino–Food, as stated above in the ''Background'' section, Shino–Food submitted letters to the Department in which it stated that it would not participate in verification, thereby failing to accommodate the Department's repeated attempts to schedule verification. On June 23, 2006, the Department contacted Shino–Food, and proposed a five-day verification of Shino–Food at any time between July 10 and July 21, 2006. *See* the Department's June 29, 2006, Memorandum to the File. Shino–Food informed the Department that Shino–Food's general manager was experiencing health problems and would not be able to accommodate the Department's proposed verification dates. Shino–Food also informed the Department that its sales manager would be in Europe during the proposed verification dates and, thus, would not be able to assist the Department with verification. On June 27, 2006, the Department proposed verification of Shino–Food during August 14 - 18, 2006, after the return of Shino Food's sales manager from his trip. On June 28, 2006, Shino–Food stated it nevertheless would not able to participate in verification during that week, because the general manager insisted that he must be present for verification and that no one else could participate in his absence. *See* the Department's June 29, 2006, Memorandum to the File.

On June 30, 2006, the Department issued a letter to Shino–Food reviewing the telephone conversations that took place between the Department and the company. In this letter, the Department described its attempts to schedule verification of Shino–Food and Shino–Food's rejections of our requests. We provided an additional opportunity for Shino–Food to accept the proposed verification dates of August 14 - 18, 2006, and warned the company that the Department would rely on adverse information in conducting its dumping analysis if Shino–Food continued to refuse to allow verification. On June 30, 2006, Shino–Food submitted a letter reiterating that due to the unavailability of its general manger, it would not be able to participate in verification during the Department's proposed August dates.

On July 19, 2006, the Department transferred reconciliation information collected from the verification of Shino–Food during the antidumping duty new shipper review to the record of the present administrative review. *See* the Department's July 19, 2006, Memorandum to the File.

On July 20, 2006, Shino–Food submitted a letter to the Department stating that due to the unavailability of its management personnel, it would not be able to participate in verification during the production season of the current POR. On July 24, 2006, the Department submitted a memorandum to the file in which we clarified that the Department did not request verification during the production season of Shino–Food. The Department then made a third attempt to schedule verification with Shino–Food for September 18 - 22, 2006, which the company also refused. *See* the Department's July 24, 2006, Memorandum to the File.

Due to Shino–Food's refusal to schedule verification of its submitted information by the Department, as explained above, we preliminarily find that Shino–Food has failed to cooperate to the best of its ability and has significantly impeded the proceeding. Therefore, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act, the Department preliminarily finds that the application of facts available is appropriate for these preliminary results.

With regard to Jiangsu, on June 27, 2006, the Department received a letter from Jiangsu stating that it was withdrawing its participation in this review. Due to Jiangsu's failure to participate in these proceedings and in verification, we preliminarily find that Jiangsu has significantly impeded the proceeding. Therefore, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act, the Department preliminarily finds that the application of facts available is appropriate for these preliminary results.

Application of Adverse Inference

Section 776(b) of the Act provides that, in selecting from among the facts available, the Department may use an inference that is adverse to the interests of the respondent if it determines that

[5] In both their February 23, 2006, and April 7, 2006, withdrawal of review request letters, petitioners stated that they wanted the administrative review to continue with respect to both Chengdu Waiyuan and Kunshan Xin'an.

a party has failed to cooperate to the best of its ability. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session, Vol. 1 (1994) at 870. In determining whether a respondent has failed to cooperate to the best of its ability, the Department need not make a determination regarding the willfulness of a respondent's conduct. *See Nippon Steel Corp. v. United States*, 337 F. 3d 1373, 1379–1384 (Fed. Cir. 2003). Furthermore, ''. . . affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.'' *Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27340 (May 19, 1997).

In determining whether a party failed to cooperate to the best of its ability, the Department considers whether a party could comply with the request for information, and whether a party paid insufficient attention to its statutory duties. *See Pacific Giant Inc. v. United States*, 223 F. Supp 2d 1336, 1342–43 (CIT 2002). Furthermore, the Department also considers the accuracy and completeness of submitted information, and whether the respondent has hindered the calculation of accurate dumping margins. *See Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808, 53819–53820 (October 16, 1997).

Pursuant to section 776(b) of the Act, we find that the PRC–wide entity (including Shino–Food, Jiangsu, Chengdu Waiyuan, and Kunshan Xin'an) failed to cooperate by not acting to the best of its ability to comply with requests for information. As discussed above, the PRC–wide entity informed the Department that it would not participate in this review, or otherwise did not provide the requested information, despite repeated requests that it do so. This information was in the sole possession of the respondents, and could not be obtained otherwise. Thus, because the PRC–wide entity refused to participate fully in this proceeding, we find it appropriate to use an inference that is adverse to the interests of the PRC–wide entity in selecting from among the facts otherwise available. By doing so, we ensure that the companies that are part of the PRC–wide entity will not obtain a more favorable result by failing to cooperate than had they cooperated fully in this review.

Selection of AFA Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 C.F.R. § 351.308(c)(1) authorize the Department to rely on information derived from: (1) the petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any information placed on the record. In reviews, it is the Department's practice to select, as AFA, the highest rate determined for any respondent in any segment of the proceeding. *See*, e.g., *Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review*, 68 FR 19504, 19508 (April 21, 2003).

The U.S. Court of International Trade and the U.S. Court of Appeals for the Federal Circuit have consistently upheld the Department's practice in this regard. *See Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Circ. 1990) (*Rhone Poulenc*); *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in a LTFV investigation); *see also Kompass Food Trading Int'l v. United States*, 24 CIT 678, 683–684 (2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd. v. United States*, 360 F. Supp. 2d 1339, 1347–1348 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *Static Random Access Memory Semiconductors from Taiwan; Final Determination of Sales at Less than Fair Value*, 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' SAA at 870. *See also Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910, 76912 (December 23, 2004). In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin ''reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.'' *Rhone Poulenc*, 899 F.2d at 1190.

Consistent with the statute, court precedent, and its practice, the Department has preliminarily assigned the rate of 212.39 percent, the highest rate determined in any segment of the proceeding to the PRC–wide entity (including Shino–Food, Jiangsu, Chengdu Waiyuan, and Kunshan Xin'an) as AFA. *See Honey from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 71 FR 34893 (June 16, 2006) (*AR3 Final Results*).

Section 776(c) of the Act provides that when the Department relies on the facts otherwise available and relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The SAA states that ''corroborate'' means to determine that the information used has probative value. *See* SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. With respect to Shino–Food, Jiangsu, Chengdu Waiyuan, and Kunshan Xin'an, we are applying the highest rate from any previous segment of this administrative proceeding as adverse facts available, which is a rate calculated for Anhui Honghui in the AR3 Final Results. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for calculated margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from the current or a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. *See*, *e.g.*, *Grain–Oriented Electrical Steel From Italy; Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 36551, 36552 (July 11, 1996), affirmed without change in *Grain–Oriented Electrical Steel from Italy; Final Results of Antidumping Duty Administrative*

Review, 62 FR 2655, 2656 (January 17, 1997). With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance.

Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812, 6814 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. *See D & L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present here. Accordingly, we determine that the highest rate from any previous segment of this administrative proceeding (*i.e.*, the calculated rate of 212.39 percent) is in accordance with the requirement of section 776(c) that secondary information be corroborated (*i.e.*, that it have probative value). The information used in calculating this margin was based on sales and production data of a respondent in a prior review, as well as on the most appropriate surrogate value information available to the Department, chosen from submissions by the parties in that review, as well as information gathered by the Department itself. Furthermore, the calculation of this margin was subject to comment from interested parties in the proceeding. *See AR3 Final Results*. Moreover, as there is no information on the record of this review that demonstrates that this rate is not appropriately used as adverse facts available for Shino–Food, Jiangsu, Chengdu Waiyuan, and Kunshan Xin'an, we determine that this rate has probative value.

Affiliation

Anhui Honghui claims that it is affiliated with Honghui Group (USA) Corp., (Honghui USA) within the meaning of section 771(33) of the Act. Section 771(33) of the Act states that affiliated persons include: (A) members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants; (B) any officer or director of an organization and such organization; (C) partners; (D) employer and employee; (E) any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization; (F) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; (G) any person who controls any other person and such other person. For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person. To find affiliation between companies, the Department must find that at least one of the criteria listed above is applicable to the respondents.

In the present case, Anhui Honghui reports in Exhibit 7 of its section A response that the same person controls and owns both Anhui Honghui and Honghui USA. Additionally, in the new shipper review of honey from the PRC, we found that Anhui Honghui was affiliated with Honghui USA and that the use of CEP sales was appropriate. *See Notice of Preliminary Results of Antidumping Duty New Shipper Reviews: Honey From the People's Republic of China*, 69 FR 69350, 69353 (November 29, 2004), affirmed without change in *Honey From the People's Republic of China: Notice of Final Results of Antidumping Duty New Shipper Reviews*, 70 FR 9271 (February 25, 2005) and *AR3 Final Results*. For purposes of this review, there is no information on the record that would cause the Department to reconsider its affiliation finding. Therefore, pursuant to sections 771(33)(E) and (F) of the Act, we preliminarily find that Anhui Honghui and Honghui USA are affiliated.

Normal Value Comparisons

To determine whether the respondent's sales of the subject merchandise to the United States were made at prices below normal value, we compared their U.S. prices to normal values, as described in the ''U.S. Price'' and ''Normal Value'' sections of this notice.

U.S. Price

Because we have preliminarily determined that Anhui Honghui and Honghui USA are affiliated within the meaning of section 771(33) of the Act, we have classified all Honghui U.S. sales as constructed export price (CEP) transactions.

Constructed Export Price

For Anhui Honghui we calculated CEP in accordance with section 772(b) of the Act, because certain sales were made on behalf of the PRC–based company by its U.S. affiliate to unaffiliated purchasers. We based CEP on packed, delivered or ex–warehouse prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for movement expenses in accordance with section 772(c)(2)(A) of the Act; these expenses included foreign inland freight, foreign brokerage and handling charges, international freight, marine insurance, U.S. brokerage and handling, U.S. warehouse fees, U.S. import (customs) duties, U.S. inland freight expenses from the port to warehouse and from the port to the customer, and added (where applicable) freight revenue.

In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses, credit expenses, and indirect selling expenses (inventory carrying costs). We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

As explained above, because Anhui Honghui and Honghui USA are affiliated within the meaning of section 771(33) of the Act, we are continuing to analyze Honghui USA's sales to the first unaffiliated customer.

Where foreign inland freight, foreign brokerage and handling, or marine insurance, were provided by PRC service providers or paid for in renminbi, we valued these services using Indian surrogate values (*see* ''Factors of Production'' section below for further discussion). For those expenses that were provided by a market–economy provider and paid for in market–economy currency, we used the reported expense.

Normal Value

Non–Market-Economy Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Preliminary Results 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003),

unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 70488 (December 18, 2003). None of the parties to these reviews have contested such treatment. Accordingly, we calculated normal value (NV) in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the extent possible, in one or more market–economy countries that: (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. India is among the countries comparable to the PRC in terms of overall economic development, as identified in the ''Memorandum from the Office of Policy to Abdelali Elouaradia, Program Manager, Office 7'' dated April 20, 2006. In addition, based on publicly available information placed on the record (*e.g.*, world production data), India is a significant producer of honey. Accordingly, we considered India the surrogate country for purposes of valuing the factors of production because it meets the Department's criteria for surrogate–country selection. *See* ''Memorandum to the File: Selection of a Surrogate Country,'' dated November 30, 2006.

Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production which included, but were not limited to: (A) hours of labor required; (B) quantities of raw materials employed; (C) amounts of energy and other utilities consumed; and (D) representative capital costs, including depreciation. We used factors of production reported by the producer or exporter for materials, energy, labor, and packing, except as indicated. To calculate NV, we multiplied the reported unit factor quantities by publicly available Indian values.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data, in accordance with our practice. *See*, e.g., *Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 67 FR 72139 (December 4, 2002), and accompanying Issues and Decision Memorandum at Comment 6; and *Certain Preserved Mushrooms from China Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 5. When we used publicly available import data from the Ministry of Commerce of India (Indian Import Statistics) for December 2004 through November 2005 to value inputs sourced domestically by PRC suppliers, we added to the Indian surrogate values a surrogate freight cost calculated using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest port of export to the factory. *See, Sigma Corp. v. United States*, 117 F. 3d 1401, 1408 (Fed. Cir. 1997). When we used non–import surrogate values for factors sourced domestically by PRC suppliers, we based freight for inputs on the actual distance from the input supplier to the site at which the input was used.

In instances where we relied on Indian import data to value inputs, in accordance with the Department's practice, we excluded imports from both NME countries and countries deemed to maintain broadly available, non–industry-specific subsidies which may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand) from our surrogate value calculations. *See*, *e.g.*, *Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields from the People's Republic of China*, 67 FR 6482 (February 12, 2002) and accompanying Issues and Decision Memorandum at Comment 1; *see also*, *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 68 FR 66800, 66808 (November 28, 2003), unchanged in the Department's final results at *Notice of Final Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004). For a complete discussion of the import data that we excluded from our calculation of surrogate values, *see* ''Memorandum to the File: Factors of Production Valuation Memorandum for the Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review of Honey from the People's Republic of China,'' dated December 21, 2006 (Factor Valuation Memo). This memorandum is on file in the Central Records Unit of the Department, located in room B099.

Where we could not obtain publicly available information contemporaneous with the POR to value factors, we adjusted the surrogate values using the Indian Wholesale Price Index (WPI) as published in the *International Financial Statistics* of the International Monetary Fund, for those surrogate values in Indian rupees. We made currency conversions, where necessary, pursuant to 19 C.F.R. § 351.415, to U.S. dollars using the daily exchange rate corresponding to the reported date of each sale. We relied on the daily exchanges rates posted on the Import Administration website (*http://ia.ita.doc.gov*). *See* Factor Valuation Memo.

We valued the factors of production as follows:

To value raw honey, we took a weighted average of the raw honey prices for each month from December 2002 through June 2003, based on the percentage of each type of honey produced and sold, as derived from EDA Rural Systems Pvt Ltd. website, *http://www.litchihoney.com* (EDA data), and as placed by the Department on the record of this administrative review on December 4, 2006. We inflated the value for raw honey using the POR average WPI rate.

The respondents in this review submitted news articles to be used as potential sources for the surrogate value data for raw honey, including an article entitled ''Monograph on Traditional Sciences and Technologies of India Honey Industry'' from the website *http://www.mandafamily.com/indhonindresources.htm* dated December 2, 2005, an article entitled ''Honey Prices Nosedive As Supply Exceeds Demand'' from *http://www.financialexpress.com* dated July 11, 2006, and an article entitled ''Honey, the Sure Way To Make Money'' from the website *http://www.thehindu.com*, dated September 11, 2005.

In addition, the Department conducted extensive research on potential raw honey surrogate values for this administrative review. The Department found the sources submitted by respondents and its own research not to be as reliable as EDA data because of the lack of information detailing how the conclusions stated in the sources were determined, researched, and collected. The EDA data are supported with information detailing how its figures are determined, researched, and collected. Additionally,

the EDA data provide multiple price points over the course of an extended period of time, whereas alternative data report very few or just a single weighted average price for a year or succession of years. Moreover, the use of EDA data is also consistent with the Department's recent decision in the third administrative review of this order. *See AR3 Final Results*, and accompanying Issues and Decision Memorandum at Comment 1. Therefore, because we find EDA data to be the best available data on the record, we have not used any of these alternate sources proposed by respondents in the preliminary results. For a complete discussion of the Department's analysis of honey, see pages 3–5 of the Factor Valuation Memo.

To value coal, the Department derived the weighted–average of the import volume and value from the Indian Import Statistics, the Harmonized Commodity Description and Coding System (HS) for HS 27011920 and as placed by the Department on the record of this administrative review on December 4, 2006. In calculating the surrogate values, the Department eliminated the data of the countries, identified as being non–market economy countries (*i.e.*, the PRC, and Vietnam), and those deemed to maintain broadly available, non–industry specific subsidies that may benefit all exporters to all export markets (*i.e.* Indonesia, South Korea, and Thailand), as identified above in the ''Valuation of Factors'' section of Factor Valuation Memo, from the dataset. *See* Factor Valuation Memo at pages 2 and 7.

To value water, we calculated the average price of water rates within and outside of industrial zones from various regions as reported by the Maharashtra Industrial Development Corporation, *http://midcindia.org*, dated June 1, 2003, and as placed by the Department on the record of this administrative review on December 4, 2006. We inflated the value for water using the POR average WPI rate. *See* Factor Valuation Memo.

We valued electricity using the 2000 electricity price in India reported by the International Energy Agency statistics for *Energy Prices & Taxes, Third Quarter 2003*, as submitted by Anhui Honghui in its July 27, 2006 surrogate values submission. We inflated the value for electricity using the POR average WPI rate. *See* Factor Valuation Memo.

While Anhui Honghui also identified diesel fuel as an input consumed in the production of the subject merchandise, the Department considers this material as overhead rather than direct material inputs. The Department therefore has excluded diesel fuel from the normal value calculation.

To value paint, we used Indian Import Statistics, contemporaneous with the POR. In calculating the surrogate values, the Department eliminated the data of the countries, identified as being non–market economy countries (*i.e.*, the PRC, and Vietnam), and those deemed to maintain broadly available, non–industry specific subsidies that may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand), as identified above in the ''Valuation of Factors'' section of Factor Valuation Memo, from the dataset. *See* Factor Valuation Memo at pages 2 and 7. The Department calculated a POR contemporaneous paint surrogate value by deriving the weighted–average of the import volume and value from the Indian Import Statistics, as identified by the designated Indian Trade Classification, based on HS 3208 and HS 3209. After deriving the weight average of each HS category of paint, the Department calculated the simple average of the two categories. *See* Factor Valuation Memo at pages 2 and 5.

To value drums, we relied upon a price quote from an Indian steel drum manufacturer from September 2000, which was used in the *AR3 Final Results*, and as placed by the Department on the record of this administrative review on December 4, 2006. We inflated the value for drums using the POR average WPI rate. *See* Factor Valuation Memo.

To value factory overhead, selling, general, and administrative expenses, and profit, we relied upon publicly available information in the 2004–2005 annual report of Mahabaleshwar Honey Production Cooperative Society Ltd. (MHPC), a producer of the subject merchandise in India, and placed by the Department on the record of this administrative review on December 4, 2006. Anhui Honghui maintains in its July 27, 2006, surrogate values submission that Department should rely on information available in an alternate Indian producer's financial statements, that of Apis India Natural Products Ltd. (Apis), 2003 2004. However, we preliminarily find that MHPC data are more appropriate than Apis data because the Apis data are not as reliable or detailed as that of MHPC. In addition, MHPC materials include a complete annual report, auditor's report, and complete profit and loss business statements that segregate MHPC's honey and fruit canning businesses. We note that MHPC is a honey processing business and its financial statements include details on the costs and revenues related to its honey processing business. Therefore, for these preliminary results we are calculating SG&A based on the MHPC data as consistent with the *AR3 Final Results*. For a further discussion of this issue, *see* Factor Valuation Memo.

Because of the variability of wage rates in countries with similar levels of per capita gross domestic product, 19 C.F.R. § 351.408(c)(3) requires the use of a regression–based wage rate. Therefore, to value the labor input, we used the PRC's regression–based wage rate published by Import Administration on its website, *http://www.ia.ita.doc.gov*. *See* Factor Valuation Memo.

To value truck freight, we calculated a weighted–average freight cost based on publicly available data from *www.infreight.com*, an Indian inland freight logistics resource website, and submitted by Anhui Honghui in its July 27, 2006, surrogate value submission. The Department valued international freight, where necessary, based on publicly available price quotes from a Danish international shipping and logistics provider, Maersk Line (formerly Maersk Sealand), a division of the A.P. Moller - Maersk Group, at *http://www.maerskline.com*. *See* Factor Valuation Memo.

We valued marine insurance, where necessary, based on publicly available price quotes from a marine insurance provider at *http://www.rjgconsultants.com/insurance.html*, and as placed by the Department on the record of this administrative review on December 4, 2006. We valued international freight expenses, where necessary, using contemporaneous freight quotes that the Department obtained from Maersk Line, also as placed by the Department on the record of this administrative review on December 4, 2006. *See* Factor Valuation Memo.

To value brokerage and handling, we used a simple average of the publicly summarized versions of the average value for brokerage and handling expenses reported in the U.S. sales listings in Essar Steel Ltd.'s (Essar Steel) February 28, 2005, submission in the third antidumping duty review of *Certain Hot–Rolled Carbon Steel Flat Products from India*, Section C Response, (February 28, 2005), and the March 9, 2004, submission from Pidilite Industries Ltd. (Pidilite) in the antidumping duty investigation of *Carbazole Violet Pigment 23 from India*, Section C Response, (March 9, 2004), which have been placed on the record of this review. *See Factor Valuation Memo* at Exhibit 20. Since both the reported rate in Essar Steel and the

Pidilite rate are not contemporaneous, we adjusted these rates for inflation using the POR wholesale WPI for India to be current with the POR of this administrative review. *See* Factor Valuation Memo.

In accordance with 19 C.F.R. § 351.301(c)(3)(ii), for the final results of this administrative review, interested parties may submit publicly available information to value the factors of production until 20 days following the date of publication of these preliminary results.

Preliminary Results of Review

We preliminarily determine that the following antidumping duty margins exist:

Exporter	Margin (percent)
Anhui Honghui Foodstuffs (Group) Co., Ltd. (Anhui Honghui)	248.96%
PRC–Wide Rate (including Shino–Food, Jiangsu, Chengdu Waiyuan, and Kunshan Xin'an)	212.39%

For details on the calculation of the antidumping duty weighted–average margin, see the analysis memorandum for Anhui Honghui for the preliminary results of the fourth administrative review of the antidumping duty order on honey from the PRC, dated December 21, 2006. Public Versions of this memorandum are on file in the CRU.

Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this review. For assessment purposes, where possible, we calculated importer–specific assessment rates for honey from the PRC on a per–unit basis. Specifically, we divided the total dumping margins (calculated as the difference between normal value and export price or constructed export price) for each importer by the total quantity of subject merchandise sold to that importer during the POR to calculate a per–unit assessment amount. If these preliminary results are adopted in our final results of review, we will direct CBP to levy importer–specific assessment rates based on the resulting per–unit (*i.e.*, per–kilogram) rates by the weight in kilograms of each entry of the subject merchandise during the POR.

Cash Deposits

The following cash–deposit requirements will be effective upon publication of the final results for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by Anhui Honghui we will establish a per–unit cash deposit rate which will be equivalent to the company–specific cash deposit established in this review; (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate (including Shino–Food, Jiangsu, Chengdu Waiyuan, and Kunshan Xin'an), the cash–deposit rate will be the PRC–wide rate of 212.39 percent; (4) for all non–PRC exporters of subject merchandise, the cash–deposit rate will be the rate applicable to the PRC supplier of that exporter.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Schedule for Final Results of Review

The Department will disclose calculations performed in connection with the preliminary results of this review within five days of the date of publication of this notice in accordance with 19 C.F.R. § 351.224(b). Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 C.F.R. § 351.310(c). Any hearing would normally be held 37 days after the publication of this notice, or the first workday thereafter, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Requests for a public hearing should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

Unless otherwise notified by the Department, interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 19 C.F.R. § 351.309(c)(ii). As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case brief is filed. If a hearing is held, an interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief. Parties should confirm by telephone the time, date, and place of the hearing within 48 hours before the scheduled time. The Department will issue the final results of this review, which will include the results of its analysis of issues raised in the briefs, not later than 120 days after the date of publication of this notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 C.F.R. § 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice is published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 20, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–22496 Filed 12–29–06; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

A–570–863

Honey from the People's Republic of China: Intent to Rescind, In Part, and Preliminary Results of Antidumping Duty New Shipper Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (''the Department'') is conducting new shipper reviews of the antidumping duty order on honey from

the People's Republic of China (''PRC'') in response to requests from Inner Mongolia Altin Bee–Keeping Co., Ltd. (''Inner Mongolia''), Qinhuangdao Municipal Dafeng Industrial Co., Ltd. (''QMD''), and Dongtai Peak Honey Industry Co., Ltd. (''Dongtai Peak''), (collectively, ''respondents''). The period of review (''POR'') is from December 1, 2004, through November 30, 2005. With regard to Inner Mongolia and Dongtai Peak, we have preliminarily determined that their sales have been made below normal value during the POR. In addition, we have preliminarily determined that Inner Mongolia's, and Dongtai Peak's sales are *bona fide* transactions. However, with regard to QMD, we have preliminarily determined its POR sale was not a *bona fide* transaction and are rescinding its review, as further explained in the *bona fide* analysis and preliminary intent to rescind sections of this notice. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 3, 2007.

FOR FURTHER INFORMATION CONTACT: Helen Kramer, Patrick Edwards, or Judy Lao AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0405, (202) 482–8029 or (202) 482–7924, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published in the **Federal Register** the antidumping duty order on honey from the People's Republic of China (''PRC'') on December 10, 2001. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Honey from the People's Republic of China*, 66 FR 63670 (December 10, 2001). On December 19, 2005, the Department received properly filed requests for the three new shipper reviews, in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (''the Act'') and 19 CFR § 351.214(b) and (c), from Inner Mongolia, QMD, and Dongtai Peak. The Department determined that the requests met the requirements stipulated in 19 CFR 351.214, and on January 31, 2006, published its initiation of these new shipper reviews. *Honey from the People's Republic of China: Initiation of New Shipper Antidumping Duty Reviews*, 71 FR 5051 (January 31, 2006).[1] On February 6, 2006, the Department issued antidumping duty new shipper questionnaires to Inner Mongolia, QMD, and Dongtai Peak. Between February 2006 and June 2006, the Department received timely filed original and supplemental questionnaire responses from all three respondents. On July 3, 2006, the Department extended the deadline for the preliminary results to November 21, 2006. *See Honey from the People's Republic of China: Notice of Time Limit for Preliminary Results of New Shipper Review*, 71 FR 37904 (July 3, 2006).

On September 8, 2006, we invited interested parties to provide information on surrogate market economy values for the factors of production reported by respondents. On September 20, 2006, and September 22, 2006, both respondents and petitioners submitted publicly available surrogate value information. On October 10, 2006, petitioners submitted comments on respondents' surrogate value submission. On October 12, 2006, respondents and QMD submitted comments on petitioners surrogate value submission. On October 25, 2006, the Department received a letter from Inner Mongolia Altin Bee–Keeping Co., Ltd., Dongtai Peak Honey Industry Co., Ltd, and Qinhuangdao Municipal Dafeng Industrial Co., Ltd. agreeing to waive the new shipper time limits in accordance with 19 CFR § 351.214(j)(3). Therefore, in accordance with 19 CFR § 351.214(j)(3), on October 25, 2006, the Department acknowledged respondents' waiver of the new shipper review time limits and aligned the new shipper reviews with the administrative review. *See* Department's Memo to All Interested Parties, dated October 25, 2006, in which the Department acknowledged that all three remaining new shipper companies waived the new shipper time limits, and the Department aligned the current new shipper reviews with the current administrative review.

On November 13, 2006, the Department further extended the deadline for the preliminary results to December 21, 2006. *See Honey from the People's Republic of China: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review and New Shipper Review*, 71 FR 66165 (November 13, 2006).

The Department conducted verification of Inner Mongolia's questionnaire responses at the company's facilities in Hohhot, Inner Mongolia, Autonomous Region, PRC from July 10–11, 2006. The Department conducted verification of QMD's questionnaire responses at the company's facilities in Qinhuangdao, Heibei, PRC, from July 13–14, 2006. The Department conducted verification of Dongtai Peak's questionnaire responses at the company's facility in Dongtai, Jiangsu Province, PRC, from July 17–18, 2006.

Scope of the Antidumping Duty Order

The products covered by this order are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The merchandise subject to this order is currently classifiable under subheadings 0409.00.00, 1702.90.90, and 2106.90.99 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise under order is dispositive.

Bona Fide Sale Analysis

In evaluating whether or not a single sale in a new shipper review is commercially reasonable, and therefore *bona fide*, the Department considers, inter alia, such factors as: (1) The timing of the sale; (2) the price and quantity; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was made on an arms–length basis. *See Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1250 (TTPC) (CIT 2005), citing *Am. Silicon Techs. v. United States*, 110 F. Supp. 2d 992, 995 (CIT 2000). Accordingly, the Department considers a number of factors in its *bona fides* analysis, ''all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise.'' *See Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1342 (CIT 2005) (New Donghua), citing *Fresh Garlic from the PRC: Final Results of*

[1] On December 29, 2006, the Department also received a request on behalf of Tianjin Eulia Honey Co., Ltd. (''Eulia'') to initiate a new shipper review. The Department initiated a new shipper review on Eulia on January 31, 2006. Eulia officially withdrew from the review on July 12, 2006. The Department rescinded the review on July 31, 2006. *See Honey from the People's Republic of China: Notice of Rescission of Antidumping Duty Review*, 71 FR 43110, (July 31, 2006).

Administrative Review and Rescission of New Shipper Review, 67 FR 11283 (March 13, 2002), and accompanying Issues and Decision Memorandum (Clipper NSR).

We preliminarily find that Inner Mongolia's and Dongtai Peak's reported U.S. sales during the POR appear to be *bona fide* based on the totality of the circumstances on the record. Specifically, we find that: (1) The price of Inner Mongolia's and Dongtai Peak's sales were within the range of the prices of other entries of subject merchandise from the PRC into the United States during the POR; (2) Inner Mongolia's and Dongtai Peak's sales were made between unaffiliated parties at arm's length; and (3) there is no record evidence that indicates that Inner Mongolia's and Dongtai Peak's sales were not made based on commercial principles. *See* ''Memorandum to Richard Weible, Office Director: Eighth Antidumping Duty New Shipper Review of the Antidumping Duty Order on Honey from the People's Republic of China: *Bona Fide* Analysis of Inner Mongolia Altin Bee Keeping Co., Ltd.,'' dated December 21, 2006; *see also*, ''Memorandum to Richard Weible, Office Director: Eighth Antidumping Duty New Shipper Review of the Antidumping Duty Order on Honey from the People's Republic of China: *Bona Fide* Analysis of Dongtai Peak Honey Industry Co., Ltd.,'' dated December 21, 2006.

However, for QMD, we found evidence that the POR sale in question is not a *bona fide* transaction. Based on our investigation of the sale, the questionnaire responses submitted by QMD, information from the Department's verification of QMD, and the lack of subsequent POR sales demonstrating that retail sales are within QMD's normal course of business, we preliminarily determine that QMD has not met the requirements to qualify for a new shipper review during the POR. *See* ''Memorandum to Richard Weible, Office Director: Eighth Antidumping Duty New Shipper Review of the Antidumping Duty Order on Honey from the People's Republic of China: *Bona Fide* Analysis of Qinhuangdao Municipal Dafeng Industrial Co., Ltd.,'' dated December 21, 2006, and further discussion below.

Preliminary Intent to Rescind

Concurrent with this notice, we are issuing a memorandum detailing our analysis of the *bona fides* of QMD's U.S. sale and our preliminary decision to rescind the new shipper review with respect to QMD. Although much of the information relied upon by the Department to analyze the issues is business proprietary, the Department based its determination that the new shipper sale made by QMD was not *bona fide* on the totality of the circumstances surrounding the sale. An analysis of QMD's sales indicates that its POR sale is not within its normal business practices. *See* ''Memorandum to Richard Weible, Office Director: Eighth Antidumping Duty New Shipper Review of the Antidumping Duty Order on Honey from the People's Republic of China: *Bona Fide* Analysis of Qinhuangdao Municipal Dafeng Industrial Co., Ltd.,'' dated December 21, 2006. Also, compared to the average unit values of all imports of retail honey shipments from the PRC during the POR, QMD's price and quantity are significantly different from other shipments from the PRC. *See Id.*

Because the Department has found QMD's single POR sale to be non–*bona fide*, it is not subject to review. *See* TTPC, 366 F. Supp. 2d at 1249 (''Pursuant to the rulings of the Court, Commerce may exclude sales from the export price calculation where it finds that they are not bona fide''). For additional information in our determination of QMD's non \ sale determination, *see id; see also*, ''Memorandum to the File: Verification of the Sales and Factors Response of Qinhuangdao Municipal Dafeng Industrial Co., Ltd. in the Antidumping Duty New Shipper Review on Honey from the People's Republic of China,'' dated August 29, 2006 (''QMD Verification Report''). Public versions of these memos are on file in the Central Records Unit (''CRU'') located in room B–099 of the Main Commerce Building.

Verification

As provided in section 782(i)(3) of the Act and 19 CFR § 351.307(b)(iv), we conducted verification of the questionnaire responses of Inner Mongolia, QMD, and Dongtai Peak in July 2006. We used standard verification procedures, including on–site inspections of the production facilities and examination of relevant sales and financial records. Our verification results are outlined in the verification reports, public versions of which are on file in the CRU located in room B–099 of the Main Commerce Building. *See* ''Memorandum to the File: Verification of the Sales and Factors Response of Inner Mongolia Altin Bee–Keeping Co., Ltd. in the Antidumping Duty New Shipper Review on Honey from the People's Republic of China,'' dated August 17, 2006 (''Inner Mongolia Verification Report''); *see also*, QMD Verification Report; *see also*, ''Memorandum to the File: Verification of the Sales and Factors Response of Dongtai Peak Honey Industry Co., Ltd. in the Antidumping Duty New Shipper Review on Honey from the People's Republic of China,'' dated August 16, 2006 (''Dongtai Peak Verification Report'').

New Shipper Status

As discussed above, we found no evidence that the sale in question for Inner Mongolia, and the sale in question for Dongtai Peak were not *bona fide* sales. *See* ''Memorandum to Richard Weible, Office Director: Eighth Antidumping Duty New Shipper Review of the Antidumping Duty Order on Honey from the People's Republic of China: *Bona Fide* Analysis of Inner Mongolia Altin Bee Keeping Co., Ltd.,'' dated December 21, 2006; *see also*, ''Memorandum to Richard Weible, Office Director: Eighth Antidumping Duty New Shipper Review of the Antidumping Duty Order on Honey from the People's Republic of China: *Bona Fide* Analysis of Dongtai Peak Honey Industry Co., Ltd.,'' dated December 21, 2006. Based on our investigation into the *bona fide* nature of the sale, for each respondent, the questionnaire responses submitted by each respondent, and our verifications thereof, we preliminarily determine that Inner Mongolia, and Dongtai Peak have met the requirements to qualify as new shippers during the POR. We have determined that Inner Mongolia and Dongtai Peak made their first sale and/or shipment of subject merchandise to the United States during the POR, and that they were not affiliated with any exporter or producer that had previously shipped subject merchandise to the United States during the POR. Therefore, for purposes of these preliminary results of review, pursuant to 19 CFR 351.214(b)(2), we are treating Inner Mongolia's, and Dongtai Peak's sales of honey to the United States as appropriate transactions for a new shipper review. *See* ''Separate Rates'' section below.

Separate Rates

In proceedings involving non–market economy (''NME'') countries (*see* section 771(18) of the Act), the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (''*de jure*'') and in fact (''*de facto*''), with respect to its export activities. For the new shipper reviews,

each respondent submitted information in support of its claim for a company–specific rate. Moreover, we examined each respondent's claims for a separate rate at verification.

Accordingly, we have considered whether respondents are independent from government control, and therefore eligible for a separate rate. To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), and accompanying Issue and Decision memorandum at Comment 1 (''*Sparklers*''), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, at 22586–7 (May 2, 1994) (''*Silicon Carbide*''). In accordance with the separate–rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities. Respondents provided complete separate–rate information in their respective responses to our original and supplemental questionnaires.

Absence of *De Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR 20588, and accompanying Issue and Decision memorandum at Comment 1. As discussed below, our analysis shows that the evidence on the record supports a preliminary finding of *de jure* absence of government control for each respondent based on each of these factors.

Both Inner Mongolia and Dongtai Peak placed on the record a number of documents to demonstrate absence of *de jure* control, including the ''Company Law of the People's Republic of China'' (December 29, 1993) and the ''Foreign Trade Law of the People's Republic of China'' (May 12, 1994). *See* Exhibit A–2 of Inner Mongolia's and Dongtai Peak's, respective Section A submissions, both dated March 11, 2006, (collectively, ''Section A responses''). Respondents also submitted copies of their business licenses in Exhibit A–3 of their respective Section A responses. The Inner Mongolia Autonomous Region Tumd Left Banner Industry Commerce Administration Bureau issued Inner Mongolia's business license. The Dongtai Industry & Commerce Administration Bureau issued Dongtai Peak's business license. Each respondent stated the following in regard to their business license: the business license defines the scope of the company's business activities and ensures the company has sufficient capital to continue its business operations; the business license is issued solely and directly to the company, and no other company can use the business license that they use. Respondents add that their license defines the business activities that they engage in and entitles them to produce and sell honey and honey products. There are no other limitations or entitlements posed by the business license, according to respondents. Furthermore, respondents state that a business entity must obtain a license before it legally operates.

Respondents state that the Foreign Trade Law governs the establishment of limited liability companies, and provides that such a company shall operate independently and be responsible for its own profits and losses. Respondents also placed on the record the *Company Law of the People's Republic of China*, stating that this law allows them full autonomy from the central authority in governing its business operations. We have reviewed Article 11 of Chapter II of the *Foreign Trade Law*, which states, ''foreign trade dealers shall enjoy full autonomy in their business operation and be responsible for their own profits and losses in accordance with the law.'' As in prior cases, we have analyzed such PRC laws and found that they establish an absence of de jure control. *See, e.g., Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 63 FR 3085 at 3086 (January 21, 1998) and *Preliminary Results of Antidumping Duty New Shipper Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 30695 at 30696 (June 7, 2001), as affirmed in *Final Results of New Shipper Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 45006 (August 27, 2001). Therefore, we preliminarily determine that there is an absence of *de jure* control over the export activities of Dongtai Peak, and Inner Mongolia.

Absence of *De Facto* Control

Typically, the Department considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a government authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide* at 22587. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control that would preclude the Department from assigning separate rates.

Each respondent has asserted the following: (1) It is a privately owned company; (2) there is no government participation in its setting of export prices; (3) its general manager has the authority to sign export contracts; (4) the shareholders appointed the general manager, who selected the other managers, and it does not have to notify government authorities of its management selection; (5) there are no restrictions on the use of its export revenue; and (6) the shareholders decide how profits will be used, *see* Section A responses. We have examined the documentation provided and note that it does not demonstrate that pricing is coordinated among exporters of PRC honey.

Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over respondents' export activities, we preliminarily determine that Inner Mongolia, and Dongtai Peak have met the criteria for the application of a separate rate.

Normal Value Comparisons

To determine whether each respondent's sale of honey to the United States was made at prices below normal value (''NV''), we compared their United States prices to NV, as described in the ''U.S. Price'' and ''Normal Value'' sections of this notice.

U.S. Price

Export Price

For both respondents, we based U.S. price on export price (''EP'') in accordance with section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation, and constructed export price (''CEP'') was not otherwise warranted by the facts on the record. We calculated EP based on the packed price from the exporter to the first unaffiliated customer in the United States. We deducted foreign inland freight and foreign brokerage and handling expenses from the starting price (''gross unit price''), in accordance with section 772(c) of the Act.

Where foreign inland freight and foreign brokerage and handling expenses were provided by PRC service providers or paid for in renminbi, we valued these services using Indian surrogate values (*see* ''Factors of Production'' section below for further discussion). For expenses provided by a market–economy provider and paid for in market–economy currency, we used the reported expense, pursuant to 19 CFR § 351.408(c)(1).

Normal Value

1. Methodology

The Department's general policy, consistent with section 773(c)(1)(B) of the Act, is to calculate NV using each of the factors of production (''FOP'') that a respondent consumes in the production of a unit of the subject merchandise. There are circumstances, however, in which the Department will modify its standard FOP methodology, choosing to apply a surrogate value to an intermediate input instead of the individual FOPs used to produce that intermediate input. First, a respondent may report factors used to produce an intermediate input that accounts for an insignificant share of total output. When the potential increase in accuracy to the overall calculation that results from valuing each of the FOPs is outweighed by the resources, time, and burden such an analysis would place on all parties to the proceeding, the Department has valued the intermediate input directly using a surrogate value. *See Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review and Final Results of New Shipper Reviews*, 71 FR 26329 (May 4, 2006) (''Garlic''), and accompanying Issues and Decision Memorandum at Comment 1; *Certain Preserved Mushrooms from the People's Republic of China: Final Results of First New Shipper Review and First Antidumping Duty Administrative Review*, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 2. Second, as the Department explained in Garlic, attempting to value the factors used in a production process yielding an intermediate product may lead to an inaccurate result because a significant element of cost would not be adequately accounted for in the overall factors buildup. *See Garlic*, 71 FR 26329, and accompanying Issues and Decision Memorandum at Comment 2.

We note that Inner Mongolia owns bee hives and contends that their own bee farms supplied all of the raw honey they processed during the POR. Inner Mongolia argues that its processed honey should be valued by using surrogate values for the beekeeping factors used to produce raw honey. In the course of this proceeding, the Department has requested and obtained detailed information from Inner Mongolia with respect to its raw honey production practices.

In order to ascertain whether Inner Mongolia's books and records are able to substantiate accurately the complete costs of producing honey, we have considered and analyzed the factors associated with production, including labor costs, pesticides, overhead expenses, and raw honey supply produced. For labor costs, the Department found that Inner Mongolia did not track the actual labor hours on its bee farms, or maintained records that would allow them to substantiate this information. For pesticides, the Department found that Inner Mongolia could not identify the chemical composition of the pesticides used on the bee farms. Therefore, the Department could not determine the appropriate surrogate value for pesticides. For overhead expenses, Inner Mongolia did not submit public financial statements for a surrogate honey processor that owns bee farms. Also, the available surrogate financial ratios do not capture the overhead costs for beekeeping operations. Therefore, it is impossible to determine an appropriate surrogate value for overhead expenses.

For raw honey supply, the Department verified the quantity of raw honey delivered to Inner Mongolia's processing plant during the POR, and found that the average yield of raw honey per beehive based on the numbers of hives the company reported as having used during the POR is far in excess of maximum yields reported worldwide. *See* the Department's letter to the interested parties dated Nov. 14, 2006, attaching articles showing yields per hive in various countries ranging from 20 to 100 kg, and the petitioners' letters dated November 22 and 28, 2006. The Department gave the parties an opportunity to comment on the raw honey yields. Based upon the information and comments provided by the parties, the Department has preliminarily determined that Inner Mongolia has not substantiated its aberrationally high yields.

Based on our analysis of the information on the record, we find that Inner Mongolia is unable to record accurately and substantiate the complete costs of producing raw honey. Therefore, we have preliminarily determined that the use of intermediate input methodology is more accurate, and have used raw honey as the direct raw material input. For a complete explanation of the Department's analysis, *see* the Department's Factor of Production Valuation memo, dated December 21, 2006; Inner Mongolia Altin Bee–Keeping Co., Ltd. Program Analysis for the Preliminary Results of Review, dated December 21, 2006.

In future reviews, should a respondent be able to provide sufficient factual evidence that it maintains the necessary information in its internal books and records that would allow us to establish the completeness and accuracy of the reported FOPs, we will revisit this issue and consider whether to use its reported beekeeping FOPs in the calculation of NV.

Non–Market-Economy Status

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Preliminary Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003), as affirmed in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 70488 (December 18, 2003). None of the parties to these reviews has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the extent possible, in one or more market–economy countries that: (1) Are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. India is among the countries comparable to the PRC in terms of overall economic development, as identified in the ''Memorandum from the Office of Policy to Abdelali Elouaradia, Program Manager Office 7'' dated April 20, 2006. In addition, based on publicly available information placed on the record (*e.g.*, world production data), India is a significant producer of honey. Accordingly, we considered India the surrogate country for purposes of valuing the factors of production because it meets the Department's criteria for surrogate–country selection. *See* ''Memorandum to the File: Selection of a Surrogate Country,'' dated November 30, 2006.

Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production which included, but were not limited to: (A) Hours of labor required; (B) quantities of raw materials employed; (C) amounts of energy and other utilities consumed; and (D) representative capital costs. We used factors of production reported by the producer for materials, energy, labor, and packing. To calculate NV, we multiplied the reported unit factor quantities by publicly available Indian values.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data, in accordance with our practice. *See, e.g., Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 67 FR 72139 (December 4, 2002), and accompanying Issues and Decision Memorandum at Comment 6; and *Certain Preserved Mushrooms from China Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 5.

When we used publicly available import data from the Ministry of Commerce of India (Indian Import Statistics) for December 2004 through November 2005 to value inputs sourced domestically by PRC suppliers, we added to the Indian surrogate values a surrogate freight cost calculated using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest port of export to the factory. *See, Sigma Corp. v. United States*, 117 F. 3d 1401, 1408 (Fed. Cir. 1997). When we used non–import surrogate values for factors sourced domestically by PRC suppliers, we based freight for inputs on the actual distance from the input supplier to the site at which the input was used. In instances where we relied on Indian import data to value inputs, in accordance with the Department's practice, we excluded imports from both NME countries and countries deemed to maintain broadly available, non–industry-specific subsidies which may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand) from our surrogate value calculations. *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields from the People's Republic of China*, 67 FR 6482 (February 12, 2002), and accompanying Issues and Decision Memorandum at Comment 1; *see also, Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 68 FR 66800 at 66808 (November 28, 2003), unchanged in the Department's final results at *Notice of Final Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004).

For a complete discussion of the import data that we excluded from our calculation of surrogate values, *see* ''Memorandum to the File: Factors of Production Valuation Memorandum for the Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review of Honey from the People's Republic of China,'' dated December 21, 2006 (Factor Valuation Memo). This memorandum is on file in the CRU, located in room B099 of the main Commerce building.

Where we could not obtain publicly available information contemporaneous with the POR to value factors, we adjusted the surrogate values using the Indian Wholesale Price Index (WPI) as published in the *International Financial Statistics* of the International Monetary Fund, for those surrogate values in Indian rupees. We made currency conversions, where necessary, pursuant to 19 CFR § 351.415, to U.S. dollars using the daily exchange rate corresponding to the reported date of each sale. We relied on the daily exchanges rates posted on the Import Administration Web site (*http://ia.ita.doc.gov*). *See* Factor Valuation Memo.

We valued the factors of production as follows:

To value raw honey, we took a weighted average of the raw honey prices for each month from December 2002 through June 2003, based on the percentage of each type of honey produced and sold, as derived from EDA Rural Systems Pvt Ltd. Web site, *http://www.litchihoney.com* (EDA data), and as placed by the Department on the record of this administrative review on December 4, 2006, and used in the prior administrative review of honey from the PRC. *See AR3 Final Results* and accompanying Issues and Decision Memorandum at Comment 1. We inflated the value for raw honey using the POR average WPI rate.

The respondents in this review submitted news articles to be used as potential sources for the surrogate value data for raw honey, including an article entitled ''Monograph on Traditional Sciences and Technologies of India Honey Industry'' from the Web site *http://www.mandafamily.com/indhonindresources.htm* dated December 2, 2005, an article entitled ''Honey prices nosedive as supply exceeds demand'' from *http://www.financialexpress.com* dated July 11, 2006, and an article entitled ''Honey, the sure way to make money'' from the *http://www.thehindu.com* dated September 11, 2005. In addition, the Department conducted extensive research on potential raw honey surrogate values for this administrative review. The Department found the sources submitted by respondents and our own research of new sources not to be as reliable as EDA data because of the lack of information detailing how the conclusions stated in the sources were determined, researched, and collected. The EDA data are supported with information detailing how its figures are determined, researched, and collected. Additionally, the EDA data provide multiple price points over the course of an extended period of time, whereas alternative data report very few or just a single weighted–average price for a year or succession of years. Therefore, because we find EDA data to be the best available data on the record, we have not used any of these alternate sources proposed by respondents in the

preliminary results. For a complete discussion of the Department's analysis of honey, *see Factor Valuation Memo* at 3–5.

To value coal, the Department derived the weighted–average of the import volume and value from the Indian Import Statistics, Harmonized Commodity Description and Coding System (HS), for HS 27011920. In calculating the surrogate values, the Department eliminated the data of the countries identified as being non–market economy countries (*i.e.*, the PRC and Vietnam), and those deemed to maintain broadly available, non–industry specific subsidies that may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand), as identified above in the ''Valuation of Factors'' section of Factor Valuation Memo, from the dataset. *See Id.* at 2 and 7.

To value water, we calculated the average price of water rates within and outside of industrial zones from various regions as reported by the Maharashtra Industrial Development Corporation, *http://midcindia.org,* dated June 1, 2003. We inflated the value for water using the POR average WPI rate. *See Id.* at 8.

We valued electricity using the 2000 electricity price in India reported by the International Energy Agency statistics for *Energy Prices & Taxes, Third Quarter 2003*. We inflated the value for electricity using the POR average WPI rate. *See Id.* at 8.

To value paint, we used Indian Import Statistics, contemporaneous with the POR. In calculating the surrogate values, the Department eliminated the data of the countries identified as being non–market economy countries (*i.e.*, the PRC and Vietnam), and those deemed to maintain broadly available, non–industry specific subsidies that may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand), as identified above in the ''Valuation of Factors'' section of Factor Valuation Memo, from the dataset. *See Id.* at 2 and 7. The Department calculated a POR contemporaneous paint surrogate value by deriving the weighted–average of the import volume and value from the Indian Import Statistics, as identified by the designated Indian Trade Classification, based on the HS 3208 and HS 3209. After deriving the weighted average of each HS category of paint, the Department calculated the simple average of the two categories. *See Id.* at 2 and 5.

To value drums, we relied upon a price quote from an Indian steel drum manufacturer from September 2000, which was used in the *AR3 Final Results*, and as placed by the Department on the record of this administrative review on December 4, 2006. We inflated the value for drums using the POR average WPI rate. *See Id.* at 5.

To value factory overhead, selling, general, and administrative expenses (SG&A), and profit, we relied upon publicly available information in the 2004–2005 annual report of Mahabaleshwar Honey Production Cooperative Society Ltd. (MHPC), a producer of the subject merchandise in India, and placed by the Department on the record of this administrative review on December 4, 2006. Respondents maintain in their September 20, 2006, surrogate values submission that Department should rely on information available in an alternate Indian producer's financial statements, that of Apis India Natural Products Ltd. (Apis), 2003 2004. However, we preliminarily find that MHPC data are more appropriate than Apis data because the Apis data are not as reliable or detailed as that of MHPC. In addition, MHPC materials include a complete annual report, auditor's report, and complete profit and loss business statements that segregate MHPC's honey and fruit canning businesses. We note that MHPC is a honey processing business and its financial statements include details on the costs and revenues related to its honey processing business. Therefore, for these preliminary results we are calculating SG&A based on the MHPC data, which were used in the *AR3 Final Results*. For a further discussion of this issue, *see Id.* at 9.

To value truck freight, we calculated a weighted–average freight cost based on publicly available data from www.infreight.com, an Indian inland freight logistics resource Web site. The Department valued international freight, where necessary, based on publicly available price quotes from a Danish international shipping and logistics provider, Maersk Line (formerly Maersk Sealand), a division of the A.P. Moller - Maersk Group, at *http://www.maerskline.com. See Id.* at 8.

We valued marine insurance, where necessary, based on publicly available price quotes from a marine insurance provider at *http://www.rjgconsultants.com/*insurance.html, which are applicable for all destinations from the Far East. Marine insurance is based on a flat insurance rate, plus an additional ''War Risk'' fee. We valued international freight expenses, where necessary, using contemporaneous freight quotes that the Department obtained from Maersk Line. *See Id.* at 9.

To value brokerage and handling, we used a simple average of the publicly summarized versions of the average value for brokerage and handling expenses reported in the U.S. sales listings in Essar Steel Ltd.'s (Essar Steel) February 28, 2005, submission in the antidumping duty review of *Certain Hot–Rolled Carbon Steel Flat Products from India*, and the March 9, 2004, submission from Pidilite Industries Ltd. (Pidilite) in the antidumping duty investigation of *Carbazole Violet Pigment 23 from India*, both of which have been placed on the record of this review. See Factor Valuation Memo at Exhibit 20. Since both the reported rate in Essar Steel and the Pidilite rate are not contemporaneous, we adjusted these rates for inflation using the POR wholesale WPI for India to be current with the POR of this administrative review. *See Id.* at 9.

To value labels, the Department calculated a POR–contemporaneous label surrogate value by deriving the weighted average value per kilogram of the import volume and value from the Indian Import Statistics for HS 482190. In calculating the surrogate values, the Department eliminated the data of the countries identified as being non–market economy countries (*i.e.*, the PRC and Vietnam), and those deemed to maintain broadly available, non–industry specific subsidies that may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand), as identified above in the ''Valuation of Factors'' section of Factor Valuation Memo, from the dataset. *See* Id. at 5.

To value bottles and caps, the Department calculated a POR–contemporaneous bottles and caps surrogate value by deriving the weighted average of the import volume and value from the Indian Import Statistics for HS 39233090 and HS 39235010. In calculating the surrogate values, the Department eliminated the data of the countries identified as being non–market economy countries (*i.e.*, the PRC and Vietnam), and those deemed to maintain broadly available, non–industry specific subsidies that may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand). After deriving the weighted average value per kilogram of the HS categories for bottles and caps, the Department calculated the simple average of the two categories. *See Id.* at 6.

To value cartons, the Department calculated a POR–contemporaneous carton surrogate value by deriving the

weighted average of the import volume and value from the Indian Import Statistics for HS 48191000. In calculating the surrogate values, the Department eliminated the data of the countries identified as being non–market economy countries (*i.e.*, the PRC and Vietnam), and those deemed to maintain broadly available, non–industry specific subsidies that may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand). *See Id.* at 6.

To value tape, the Department calculated a POR–contemporaneous tape surrogate value by deriving the weighted average of the import volume and value from the Indian Import Statistics for HS 391910. In calculating the surrogate values, the Department eliminated the data of the countries identified as being non–market economy countries (*i.e.*, the PRC and Vietnam), and those deemed to maintain broadly available, non–industry specific subsidies that may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand). *See Id.*, at 6.

To value plastic pallets, the Department relied upon a price quote from Pilco Storage System Private Limited, an Indian manufacturer of pallets (made predominantly of plastic) from January 2006. The price quotation lists prices for various grades of plastic pallets manufactured by the company. The Department considers this quote to be contemporaneous with the POR. For the surrogate price of pallets, the Department is using the quoted price for C–Type pallets of a size of 1000mm x 1000mm x 120 mm, which the Department determines to be conservative. *See Id.*, at 6.

The Department calculated a POR–contemporaneous plastic film surrogate value by deriving the weighted average of the import volume and value from the Indian Import Statistics for HS 39201012. In calculating the surrogate values, the Department eliminated the data of the countries identified as being non–market economy countries (*i.e.*, the PRC and Vietnam), and those deemed to maintain broadly available, non–industry specific subsidies that may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand). *See Id.* at 6.

The Department calculated a POR–contemporaneous beeswax surrogate value by deriving the weighted average of the import volume and value from the Indian Import Statistics for HS 15219010. In calculating the surrogate values, the Department eliminated the data of the countries identified as being non–market economy countries (*i.e.*, the PRC and Vietnam), and those deemed to maintain broadly available, non–industry specific subsidies that may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand). *See Id.* at 7.

To value pollen, the Department calculated a POR–contemporaneous value of inedible molasses (which is the same HS used to value scrap honey) by deriving the weighted average of the import volume and value from the Indian Import Statistics for HS 170390. In calculating the surrogate values, the Department eliminated the data of the countries identified as being non–market economy countries (*i.e.*, the PRC and Vietnam), and those deemed to maintain broadly available, non–industry specific subsidies that may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand). *See Id.* at 7.

The Department calculated a POR–contemporaneous propolis surrogate value by deriving the weighted average of the import volume and value from the Indian Import Statistics for HS 15219090, ''Other Insect Wax''. In calculating the surrogate values, the Department eliminated the data of the countries identified as being non–market economy countries (*i.e.*, the PRC and Vietnam), and those deemed to maintain broadly available, non–industry specific subsidies that may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand). *See Id.* at 7.

To value the labor input, we used the PRC's regression–based wage rate published by Import Administration on its Web site. *See* the Import Administration Web site: *http://www.ia.ita.doc.gov/wages*. Because of the variability of wage rates in countries with similar levels of per capita gross domestic product, section 351.408(c)(3) of the Department's regulations requires the use of a regression–based wage rate. *See Id.* at 8.

In calculating the freight rate for truck shipments, we used the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F. 3d 1401 (Fed. Cir. 1997) (*Sigma Freight*). To derive the freight cost for each material input, the Department multiplied the surrogate freight value per kilogram per kilometer by the *Sigma Freight*. The Department added the freight expense to the cost of the material input to determine gross material costs. Where there were multiple suppliers of an input, we calculated a weighted–average distance. *See Id.* at 8.

The Department valued international freight, where applicable, based on publicly available price quotes from a Danish international shipping and logistics provider, Maersk Line (formerly Maersk Sealand), a division of the A.P. Moller - Maersk Group, at *http://www.maerskline.com*. The Department calculated a contemporaneous weighted–average shipping cost based on rate quotes for shipping a 18,500 kilogram maximum–load container from China to both the east and west coasts of the United States, and then adjusting the two rates by the WPI for the current POR. *See Id.* at 9.

In accordance with 19 CFR § 351.301(c)(3)(ii) of the Department's regulations, for the final results of these new shipper reviews, interested parties may submit publicly available information to value the factors of production until 20 days following the date of publication of these preliminary results.

Preliminary Results of Review

We preliminarily determine that the following antidumping duty margins exists:

Exporter	Margin
Inner Mongolia Altin Bee Keeping Co., Ltd.	145.98%
Dongtai Peak Honey Industry	33.08%

For details on the calculation of the antidumping duty weighted–average margin for Inner Mongolia and Dongtai Peak, *see* Inner Mongolia's and Dongtai Peak's respective analysis memorandums for the preliminary results of the eighth new shipper reviews of the antidumping duty order on honey from the PRC, dated December 21, 2006. Public versions of this memorandum are on file in the CRU.

Assessment Rates

Pursuant to 19 CFR § 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions directly to CBP within 15 days of publication of the final results of these new shipper reviews. For assessment purposes, where possible, we calculated importer–specific assessment rates for honey from the PRC on a per–unit basis. Specifically, we divided the total dumping margins (calculated as the difference between normal value and export price or constructed export price) for each importer by the total quantity

of subject merchandise sold to that importer during the POR to calculate a per–unit assessment amount. If these preliminary results are adopted in our final results of review, we will direct CBP to levy importer–specific assessment rates based on the resulting per–unit (*i.e.*, per–kilogram) rates by the weight in kilograms of each entry of the subject merchandise during the POR.

Cash Deposit

The following cash–deposit requirements will be effective upon publication of these final results for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise produced and exported by Inner Mongolia, and subject merchandise produced and exported by Dongtai Peak we will establish a per–kilogram cash deposit rate which will be equivalent to the company–specific cash deposit established in this review; (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash–deposit rate will be the PRC–wide rate of 212.39 percent; (4) for all non–PRC exporters of subject merchandise, the cash–deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Schedule for Final Results of Review

Unless otherwise notified by the Department, interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 19 CFR § 351.309(c)(ii). As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case brief is filed. *See* 19 CFR § 351.309(d).

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR § 351.310(c). Any hearing would normally be held 37 days after the publication of this notice, or the first workday thereafter, at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. If a hearing is held, an interested party must limit its presentation only to arguments raised in its briefs. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

The Department will issue the final results or final rescissions of these new shipper reviews, which will include the results of its analysis of issues raised in the briefs, within 90 days from the date of the preliminary results, unless the time limit is extended.

Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR § 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

These new shipper reviews and this notice are published in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: December 20, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–22497 Filed 12–29–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(C–580–818)

Final Results of Countervailing Duty Administrative Review: Corrosion–Resistant Carbon Steel Flat Products from the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On September 11, 2006, the U.S. Department of Commerce (''the Department'') published in the **Federal Register** its preliminary results of the administrative review of the countervailing duty (CVD) order on corrosion–resistant carbon steel flat products (*i.e.*, corrosion–resistant carbon steel plate) from the Republic of Korea (Korea) for the period of review (POR) January 1, 2004, through December 31, 2004. *See Preliminary Results of Countervailing Duty Administrative Review: Corrosion–Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 FR 53413 (September 11, 2006) (''*Preliminary Results*''). We preliminarily found that Pohang Iron and Steel Co. Ltd. (POSCO) and Dongbu Steel Co., Ltd. (Dongbu) received *de minimis* countervailable subsidies during the POR. We did not receive any comments on our preliminary results, and we have made no revisions.

EFFECTIVE DATE: January 3, 2007.

FOR FURTHER INFORMATION CONTACT: Robert Copyak or Gayle Longest, AD/CVD Operations, Office 3, Import Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2209 or (202) 482–3338, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 17, 1993, the Department published in the **Federal Register** the CVD order on corrosion–resistant carbon steel flat products from Korea. *See Countervailing Duty Orders and Amendments to Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Korea*, 58 FR 43752 (August 17, 1993). On September 11, 2006, the Department published in the **Federal Register** its preliminary results of the administrative review of this order for the period January 1, 2004, through December 31, 2004. *See Preliminary Results*, 71 FR 5343. In accordance with 19 CFR 351.213(b), this administrative review covers POSCO and Dongbu, producers and exporters of subject merchandise.

In the *Preliminary Results*, we invited interested parties to submit briefs or request a hearing. The Department did not conduct a hearing in this review because none was requested, and no briefs were received.

Scope of Order

Products covered by this order are certain corrosion–resistant carbon steel flat products from Korea. These products include flat–rolled carbon steel

products, of rectangular shape, either clad, plated, or coated with corrosion–resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron–based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness. The merchandise subject to this order is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTSUS) at subheadings: 7210.30.0000, 7210.31.0000, 7210.39.0000, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.60.0000, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.21.0000, 7212.29.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.9030, 7215.90.5000, 7217.12.1000, 7217.13.1000, 7217.19.1000, 7217.19.5000, 7217.20.1500, 7217.22.5000, 7217.23.5000, 7217.29.1000, 7217.29.5000, 7217.30.15.0000, 7217.32.5000, 7217.33.5000, 7217.39.1000, 7217.39.5000, 7217.90.1000 and 7217.90.5000. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise is dispositive.

Period of Review

The POR for which we are measuring subsidies is from January 1, 2004, through December 31, 2004.

Final Results of Review

As noted above, the Department received no comments concerning the *Preliminary Results*. Consistent with the *Preliminary Results*, we find that POSCO and Dongbu received *de minimis* countervailable subsidies during the POR. As there have been no changes or comments from the *Preliminary Results*, a Decision Memorandum was not required for these final results and, therefore, no memo is attached to this **Federal Register** notice. For further details of the programs included in this proceeding, see the *Preliminary Results*.

Company	Net subsidy rate
Pohang Iron and Steel Co. Ltd. (POSCO)	0.07 percent *ad valorem* (*de minimis*)
Dongbu Steel Co. Ltd. (Dongbu)	0.39 percent *ad valorem* (*de minimis*)

Assessment Rates/Cash Deposits

The Department intends to issue assessment instructions to U.S. Customs and Border Protection (''CBP'') 15 days after the date of publication of these final results of review to liquidate shipments of subject merchandise by POSCO and Dongbu entered, or withdrawn from warehouse, for consumption on or after January 1, 2004, through December 31, 2004, without regard to countervailing duties. We will also instruct CBP not to collect cash deposits of estimated countervailing duties on shipments of the subject merchandise by POSCO and Dongbu entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results of review.

For all non–reviewed companies, the Department has instructed CBP to assess countervailing duties at the cash deposit rates in effect at the time of entry, for entries between January 1, 2004, and December 31, 2004. The cash deposit rates for all companies not covered by this review are not changed by the results of this review.

Return of Destruction of Proprietary Information

This notice serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 22, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–22493 Filed 12–29–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–835]

Final Results of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

Background:

On August 28, 2006, the Department of Commerce (''the Department'') published in the **Federal Register** its preliminary results of administrative review of the countervailing duty (''CVD'') order on stainless steel sheet and strip in coils from the Republic of Korea (''Korea'') for the period January 1, 2004, through December 31, 2004. *See Preliminary Results of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 71 FR 50866 (August 28, 2006) (''*Preliminary Results*''). The Department preliminarily found that Dai Yang Metal Co., Ltd. (''DMC''), the producer/exporter of subject merchandise covered by this review, had a *de minimis* net subsidy rate during the period of review (''POR''). We did not receive any comments on our preliminary results and have made no revisions to those results.

EFFECTIVE DATE: January 3, 2007.

FOR FURTHER INFORMATION CONTACT: Preeti Tolani, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0395.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The products subject to this order are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is

a flat–rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold–rolled, polished, aluminized, coated), provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is currently classifiable in the *Harmonized Tariff Schedule of the United States* (''HTSUS'') at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise is dispositive.

Excluded from the scope of this order are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat–rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold–rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat rolled product of stainless steel, not further worked than cold–rolled (cold–reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, ''Additional U.S. Note'' 1(d).

The Department has determined that certain specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below:

Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus–or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of between 0.002 and 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron–chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.''[1]

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non–magnetic stainless steel manufactured to American Society of Testing and Materials (''ASTM'') specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.''[2]

Certain martensitic precipitation–hardenable stainless steel is also excluded from the scope of this order. This high–strength, ductile stainless steel product is designated under the Unified Numbering System (''UNS'') as S45500–grade steel, and contains, by weight, 11 to 13 percent chromium and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under

[1] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[2] ''Gilphy 36'' is a trademark of Imphy, S.A.

proprietary trade names such as ''Durphynox 17.''[3]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).[4] This steel is similar to ASTM grade 440F, but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 HI–C.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per square micron. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no mor than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6.''

Final Results of Review

As noted above, the Department received no comments concerning the *Preliminary Results*. Therefore, consistent with the *Preliminary Results*, we continue to find the net subsidy for DMC to be 0.02 percent *ad valorem*, which is *de minimis. See* 19 CFR 351.106(c)(1). As there have been no changes to or comments on the *Preliminary Results*, we are not attaching a decision memorandum to this **Federal Register** notice. For further details of the programs included in this proceeding, see the *Preliminary Results*.

Assessment Rates/Cash Deposits

The Department intends to issue assessment instructions to U.S. Customs and Border Protection (''CBP'') 15 days after the date of publication of these final results of this review, to liquidate shipments of subject merchandise by DMC entered, or withdrawn from warehouse, for consumption on or after January 1, 2004, through December 31, 2004, without regard to countervailing duties. We will also instruct CBP not to collect cash deposits of estimated countervailing duties on shipments of the subject merchandise by DMC entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

For all non–reviewed companies, we will instruct CBP to continue to collect cash deposits at the most recent company–specific or country–wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non–reviewed companies covered by this order are those established in the most recently completed administrative proceeding. *See Final Results of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 69 FR 2113 (January 14, 2004). These rates shall apply to all non–reviewed companies until a review of a company assigned these rates is completed.

Return of Destruction of Proprietary Information

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/ destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 22, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–22494 Filed 12–29–06; 8:45 am]

BILLING CODE 3510–DS–S

[3] ''Durphynox 17'' is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management, National Ocean Service, Commerce.

ACTION: Notice of intent to evaluate and notice of availability of final findings.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Massachusetts Coastal Management Program, the Guam Coastal Management Program, the Chesapeake Bay-Virginia National Estuarine Research Reserve, and the Weeks Bay (Alabama) National Estuarine Research Reserve.

The Coastal Zone Management Programs evaluation will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972, as amended (CZMA) and regulations at 15 CFR Part 923, Subpart L. The National Estuarine Research Reserve evaluations will be conducted pursuant to sections 312 and 315 of the CZMA and regulations at 15 CFR Part 921, Subpart E and Part 923, Subpart L. The CZMA requires continuing review of the performance of states with respect to coastal program implementation. Evaluation of Coastal Management Programs and National Estuarine Research Reserves requires findings concerning the extent to which a state has met the national objectives, adhered to its Coastal Management Program document or Reserve final management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

Each evaluation will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. A public meeting will be held as part of each site visit. Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of the public meetings during the site visits.

Dates and Times: The Massachusetts Coastal Management Program evaluation site visit will be held February 5–9, 2007. One public meeting will be held during the week. The public meeting will be held on Tuesday,

February 6, 2007, at 5:30 p.m. at the Massachusetts Office of Coastal Zone Management, Atrium, 251 Causeway Street, Boston, Massachusetts.

The Guam Coastal Management Program evaluation site visit will be held February 12–16, 2007. One public meeting will be held during the week. The public meeting will be held on Tuesday, February 13, 2007, at 5 p.m. at the Richardo J. Bordallo Governor's Complex, 513 Marine Drive, Adelup, Guam.

The Chesapeake Bay-Virginia National Estuarine Research Reserve evaluation site visit will be held March 20–22, 2007. One public meeting will be held during the week. The public meeting will be held on Wednesday, March 21, 2007, at 6:30 p.m. at the College of William and Mary, Virginia Institute of Marine Science, Wilson House, Route 1208, Greate Road, Gloucester Point, Virginia.

The Weeks Bay (Alabama) National Estuarine Research Reserve evaluation site visit will be held March 20–23, 2007. One public meeting will be held during the week. The public meeting will be held on Wednesday, March 21, 2007, at 6 p.m. at the Weeks Bay National Estuarine Research Reserve, Auditorium, 11300 U.S. Highway 98, Fairhope, Alabama.

ADDRESSES: Copies of states' most recent performance reports, as well as OCRM's evaluation notification and supplemental information request letters to the states, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting held for a Program. Please direct written comments to Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the availability of the final evaluation findings for the Rhode Island, Michigan, Delaware, and Indiana Coastal Management Programs (CMPs) and the Delaware and Jobos Bay (Puerto Rico) National Estuarine Research Reserves (NERRs). Sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended, require a continuing review of the performance of coastal states with respect to approval of CMPs and the operation and management of NERRs.

The States of Rhode Island, Michigan Delaware, and Indiana were found to be implementing and enforcing their federally approved coastal management programs, addressing the national coastal management objectives identified in CZMA Section 303(2)(A)–(K), and adhering to the programmatic terms of their financial assistance awards. The Delaware and Jobos Bay (Puerto Rico) NERRs were found to be adhering to programmatic requirements of the NERR System.

Copies of these final evaluation findings may be obtained upon written request from: Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910, or *Ralph.Cantral@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910, (301) 563–7118.

Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration.

Dated: December 20, 2006.

David M. Kennedy,

Director, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. E6–22485 Filed 12–29–06; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082906A]

Atlantic Highly Migratory Species (HMS); Atlantic Shark Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; notice of public scoping meetings.

SUMMARY: NMFS published a notice of intent (NOI) to initiate an amendment to the Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP) on November 7, 2006. Today's notice announces the availability of an issues and options presentation describing potential measures for inclusion in the forthcoming Amendment 2 to the Consolidated HMS FMP and provides details for seven scoping meetings to discuss and collect comments on the issues described in the presentation. Comments received on the issues and options presentation, in the scoping meetings, and on the NOI will assist NMFS in developing Amendment 2 to the Consolidated HMS FMP. These scoping meetings will be combined with public hearings to gather comment on a proposed rule to utilize the North Atlantic swordfish quota. Those hearings are announced today in an separate **Federal Register** document.

DATES: Public scoping meetings will be held in January of 2007. These meetings will be combined with public hearings being held for a proposed rule to enable a more thorough utilization of the U.S. North Atlantic swordfish quota. For specific dates and times, see **SUPPLEMENTARY INFORMATION**.

As published on November 7, 2006 (71 FR 65086), written comments on the issues and options presentation and the NOI must be received no later than February 5, 2007.

ADDRESSES: Scoping meetings will be held in Madeira Beach, FL; Ft. Pierce, FL; Manteo, NC; Houma, LA; Gloucester, MA; Destin, FL; and, Manahawkin, NJ. For details, see **SUPPLEMENTARY INFORMATION**.

As published on November 7, 2006 (71 FR 65086), written comments on the issues and options presentation and the NOI should be sent to Michael Clark, Highly Migratory Species Management Division by any of the following methods:

• E-mail: *SF1.082906A@noaa.gov*. Include in the subject line the following identifier: ''I.D. 082906A''.

• Written: 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope ''Scoping Comments on Amendment 2 to HMS FMP.''

• Fax: (301) 713–1917.

For a copy of the stock assessments, please contact Michael Clark or Karyl Brewster-Geisz at (301) 713–2347.

FOR FURTHER INFORMATION CONTACT: Michael Clark at (301) 713–2347 or Jackie Wilson at (404) 806–7622.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The HMS FMP is implemented by regulations at 50 CFR part 635.

On November 7, 2006 (71 FR 65086), NMFS published a NOI that summarized the recent stock assessments conducted for large coastal, blacktip, sandbar, porbeagle, and dusky sharks. The NOI also described NMFS' determination as to the status of these stocks based on the assessments. As a result of these assessments, NMFS needs to amend current shark management measures via an FMP amendment and anticipates completing this amendment and any related documents by January 1, 2008. The comment period on the NOI and the issues and options presentation ends on February 5, 2007.

Request for Comments

Seven scoping meetings will be held in January 2007 to provide the public an opportunity to comment on potential shark management measures to be included in the upcoming amendment to the Consolidated HMS FMP. These public scoping meetings will be held simultaneously with public hearings for a proposed rule to gather comments on management measures to fully utilize the North Atlantic swordfish quota. The time allotted to swordfish and shark management measures will be distributed accordingly to provide ample opportunity for the public to comment on both topics. Time may be split equally or additional time may be allotted to either shark or swordfish measures, as necessary, depending on the attendees' primary interests.

Meeting Dates, Times, and Locations

The public scoping meetings for this action will be conducted as follows:

1. Wednesday, January 17, 2007, 6–9 p.m. Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930.

2. Thursday, January 18, 2007, 6–9 p.m. City of Madeira Beach, 300 Municipal Drive, Madeira Beach, Florida 33708.

3. Thursday, January 18, 2007, 6–9 p.m. Manahawkin Public Library, 129 North Main Street, Manahawkin, NJ 08050.

4. Tuesday, January 23, 2007, 6–9 p.m. Destin Community Center, 101 Stahlman Avenue, Destin, FL 32541.

5. Thursday, January 25, 2007, 6–9 p.m. Bayou Black Recreational Center, 3688 Southdown Mandalay Road, Houma, LA 70360.

6. Tuesday, January 30, 2007, 6–9 p.m. Fort Pierce Library, 101 Melody Lane, Fort Pierce, FL 34950.

7. Wednesday, January 31, 2007, 6–9 p.m. Manteo Town Hall, 407 Budleigh Street, Manteo, NC 27954.

Scoping Meetings Code of Conduct

The public is reminded that NMFS expects participants at the scoping meetings to conduct themselves appropriately. At the beginning of each meeting, a representative of NMFS will explain the ground rules (e.g., alcohol is prohibited from the hearing room; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The NMFS representative will attempt to structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and, if they do not, they will be asked to leave the meeting.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Michael Clark (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days prior to the meeting.

Dated: December 26, 2006.

Karyl K. Brewster-Geisz,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–22513 Filed 12–29–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121306A]

Taking of Marine Mammals Incidental to Specified Activities; Repair of the South Jetty at the Mouth of the Columbia River, Clatsop County, Oregon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; Proposed authorization for a small take authorization; request for comments.

SUMMARY: NMFS has received a request from the U.S. Army Corps of Engineers (ACOE), Portland District for an authorization to take small numbers of Steller sea lions, California sea lions, and Pacific harbor seals, incidental to repair work on the South Jetty at the Mouth of the Columbia River (MCR) in Clatsop County, Oregon. As a result of this request, NMFS is proposing to issue a 1–year incidental take authorization (IHA) to take marine mammals by Level B harassment incidental to this activity. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on ACOE's application and NMFS' proposal to issue an authorization to ACOE to incidentally take, by harassment, small numbers of these species of marine mammals for a period of 1 year.

DATES: Comments and information must be received no later than February 2, 2007.

ADDRESSES: Comments on the application should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning the contact listed here. The mailbox address for providing e-mail comments is *PR1.121306A@noaa.gov*. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size. A copy of the application and an Environmental Assessment (EA) prepared by ACOE may be viewed at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*, or by writing to this address or by telephoning one of the contacts listed here. Other supporting documents related to this proposed project can be viewed at ACOE's Web page at *https://www.nwp.usace.army.mil/issues/jetty/cms/documents.asp*.

FOR FURTHER INFORMATION CONTACT: Shane Guan, NMFS, (301)713–2289, ext 137, or Bridgette Lohrman, NMFS Oregon State Habitat Office, (503)230–5422.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and 101(a)(5)(D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

An authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the

availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On October 23, 2006, NMFS received a request from ACOE Portland District for an IHA to take small numbers of Steller sea lions (Eumetopias jubatus), California sea lions (Zalophus californianus), and Pacific harbor seals (Phoca vitulina richardsi), by Level B harassment, incidental to conducting repair work on the MCR South Jetty in Clatsop County, Oregon. The propose of the proposed work is to ensure the continuing function of the South Jetty by repairing critical trunk portions of the jetty. The premise of the jetty repair is to repair the most vulnerable areas of the South Jetty, where the consequences of jetty failure is high and would rapidly and significantly degrade navigation through the MCR. The intent of the proposed project is three-fold: (1) Improve the stability of the foundation (toe) of the jetty as affected by scour. (2) Improve the side slope (above and below water) stability. (3) Improve the dynamic stability of the jetty as affected by wave forces impinging on the jetty.

Interim repairs in 2007 at the MCR South Jetty consist of placing approximately 70,000 tons of stone on the north and south slopes of the jetty. The jetty repair work extends from Station (Sta) 258 to Sta 290 (3,200 linear ft, or 975 linear m) (each station represent 100 linear ft, or 30.5 linear m; Sta 0 being at the farthest landward point of the jetty). The stone size ranges from 10 - 40 tons with an average size of 16 tons. A haul road is required along the top of the jetty for travel of heavy equipment to the areas of repair.

The contractor will rebuild the existing haul road from Sta 183 to Sta 245 (6,200 linear ft, or 1,890 linear m) in the reach of the jetty that is being repaired in 2006. In addition, a new haul road segment will be constructed from Sta 245 to Sta 258 (1,300 linear ft, or 396 linear m) to access the reach of the 2007 jetty repairs, bringing the total haul road length shoreward of actual jetty rehabilitation to about 7,500 ft (2,286 m). Haul road materials may consist of approximately 50,000 tons of small rock material. New haul road construction to Sta 258 is anticipated to begin in April 2007 for duration of about 4 to 6 weeks. Haul road construction and concurrent jetty interim repairs from Sta 258 to the work terminus at Sta 290 (3,200 linear ft, or 975 linear m) will occur from May through October 2007.

A lattice boom crane and an excavator will be used to place stone. Stone placement will occur from the top of the jetty. The crane and excavator will use environmentally-friendly hydraulic fluids. Four off-road dump trucks will be used to haul the rock to the work area on the south jetty. The excavator will be used to construct the initial haul road to access the repair areas with a dozer used to build the haul road over the completed repair areas. The crane, excavator and dozer will be stored on the jetty when not in use. Fueling and maintenance will be accomplished using the Wiggins closed fueling system.

The proposed project is planned to occur from April through October, 2007. The contractor will work 7 days per week, sunrise to sunset depending on weather and wave conditions.

Description of the Marine Mammals Potentially Affected by the Activity

The marine mammals most likely to be found in MCR area are the Eastern U.S. stock of Steller sea lions, California sea lions, and Pacific harbor seals. The Steller sea lion eastern stock is listed as threatened under the Endangered Species Act (ESA) and is designated as ''depleted'' under MMPA. The California sea lions and harbor seals are not ESA-listed, nor are they depleted. General information of these species can be found in Caretta et al. (2006) and Angliss and Outlaw (2005), which is available at the following URL: *http://www.nmfs.noaa.gov/pr/pdfs/sars/po2005.pdf* and *http://www.nmfs.noaa.gov/pr/pdfs/sars/ak2005.pdf*, respectively. Refer to those documents for information on these species. Additional information on these species is presented below.

Steller sea lion

The eastern stock of Steller sea lions breeds on rookeries located in southeast Alaska, British Columbia, Oregon, and California; there are no rookeries located in Washington (Angliss and Outlaw, 2005). While Steller sea lions breed in Oregon, they use the MCR South Jetty solely as a haul out area, not a rookery.

In the vicinity of the proposed project area, Steller sea lions are present all year round, but are more numerous in the winter. The breeding season of Steller sea lions occur from late May to early July, therefore, abundance is typically lowest during this period as many of the adults are at the breeding rookeries (Hodder, 2005). Only non-breeding individuals are found on the jetty during this time, and a greater percentage of juveniles are present. Abundance increases following the breeding season. Minimum population estimate for the eastern U.S. stock of Steller sea lion is 43,728 (Angliss and Outlaw, 2005). Average numbers of Steller sea lion recorded on the MCR South Jetty area from 1995 - 2004 vary from 168 in October to 1,106 in December (Hodder, 2005).

California sea lion

The U.S. stock of California sea lion occurs from northern Washington to southern California. Major rookeries are found in waters of southern California and Baja California, Mexico. Only male California occur at the MCR South Jetty, as post-breeding dispersers from the south (Hodder, 2005). Like Steller sea lions, California sea lions also present in the vicinity of the proposed project area year round, and are also more numerous in winter. The total population size of the U.S. stock of California sea lions is estimated from 244,000 to 237,000 (Carretta *et al.*, 2006). Average numbers of California sea lions recorded on the MCR South Jetty area from 1995 - 2004 vary from 18 in January to 725 in December (Hodder, 2005).

Pacific harbor seal

The Oregon/Washington coastal stock of Pacific harbor seal occurs from northern Washington to southern

Oregon and are generally non-migratory. Harbor seals breed and pup throughout their range, including the vicinity of the Columbia River. They use the Columbia River extensively throughout the year but are rarely noted on the MCR South Jetty. An average of 1 - 2 harbor seals were recorded on MCR South Jetty from April to June between 1995 and 2004. No harbor seal have been sighted during the rest of the months (Hodder, 2005).

Potential Effects on Marine Mammals and Their Habitat

ACOE and NMFS have determined that the proposed repair work at MCR South Jetty has the potential to result in behavioral harassment of those Steller sea lions, California sea lions, and Pacific harbor seals that may be present in the project vicinity.

The potential takes of these three marine mammal species will be from noise generated by operation of construction equipment and related activities, and from the presence of trucks, excavators, construction machinery, and personnel in the proximity to the animals.

The anticipated impact upon the sea lions and harbor seals include temporary disturbance and displacement of animals to other parts of the jetty or other nearby haul-outs until work is discontinued. Other haul-outs are available for harbor seals throughout the Columbia River estuary, and for sea lions on other parts of the south jetty, the North Jetty, or rocky headlands in northern Oregon or southern Washington states. Observations in the past have shown that animals that are disturbed into the water did not leave the vicinity, instead, they would move to other parts of the jetty.

It has been observed that Steller sea lions moved into water when approached by a boat within 300 ft (91 m) or less, however, in other occasions there was no change in Steller sea lion behavior when approached within the same distance or less. It is also noted that majority of Steller sea lions use the far end of the jetty, which is broken off from the main stretch of the jetty and formed an island. It is estimated that maximum of 10 percent Steller sea lions at South Jetty will occur within range of disturbance, and none would occur within the range of disturbance during the first month. Therefore, the total number of Steller sea lion that potentially could be taken, calculated from the recorded data of Steller sea lion at South Jetty from 1995 – 2004, would be 204 animals.

California sea lions are known to use areas of the jetty more shoreward than Steller sea lions. It is assumed that all California sea lions and harbor seals hauled out in the vicinity of the proposed project would be taken by Level B harassment. Based on the average number of pinnipeds recorded on the MCR South Jetty between 1995 and 2004 (Hodder, 2005), it is estimated that a total of 336 California sea lions and 4 Pacific harbor seals would be taken by Level B harassment as a result of the proposed jetty repair work.

Repairing the South Jetty by adding more rocks will not reduce the availability or accessibility of habitat for Steller and California sea lions and harbor seals, as rock replacement would occur at the existing jetty footprint. Seals and sea lions use the existing tip of the jetty that is built of concrete blocks, and are easily able to climb up several vertical feet from one block to the next. The MCR South Jetty is not designated as critical habitat for the Steller sea lion under the ESA.

There is no subsistence harvest of marine mammals in the proposed project area, therefore, there will be no impact of the activity on the availability of the species or stocks of marine mammals for subsistence uses.

Mitigation and Monitoring

As a mitigation measure to reduce potential Level B harassment to marine mammals as a result of the proposed project, NMFS proposes that during land-based rock placement at South Jetty, the contractor vehicles and personnel should avoid direct approach towards pinnipeds that are hauled out as much as possible. If it is absolutely necessary for the contractor to make movements towards pinnipeds, the contractor will approach in a slow and steady manner to reduce the behavioral harassment to the animals as much as possible.

ACOE would monitor marine mammals before, during, and after the proposed South Jetty repair project in the MCR area. Steller and California sea lions and harbor seal in the MCR area would be monitored for 1 week before, during, and 4 and 8 weeks after the proposed construction work. Pinniped species, numbers, behavior, any observed disturbances during the jetty repair construction, and recolonization by pinnipeds of the project area after the construction activities would be noted.

Reporting

The ACOE will report the number of sea lions and seals present on the South Jetty for 1 week before starting work. During construction, the ACOE will provide weekly reports to NMFS which will include a summary of the previous week's numbers of sea lions and seals that may have been disturbed as a result of the jetty repair construction activities. These reports will provide dates, time, tidal height, maximum number of sea lions and seals on the jetty and any observed disturbances. The ACOE also will provide a description of construction activities at the time of observation. The ACOE will submit a report to NMFS within 90 days of completion of the 2007 phase of the project.

National Environmental Policy Act (NEPA)

In January, 2005, ACOE prepared the *Final Environmental Assessment Repair of North and South Jetties Mouth of the Columbia River, Clatsop County, Oregon and Pacific County, Washington* (EA) and issued a Finding of No Significant Impact on January 24, 2005. NMFS is reviewing this EA and will either adopt it or prepare its own NEPA document before making a determination on the issuance of an IHA. A copy of ACOE's EA for this activity is available upon written request (see **ADDRESSES**) or at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

ESA

The NMFS Northwest Regional Office (NWRO) prepared a Biological Opinion (BO) upon conducting a section 7 consultation with the ACOE in July 2004. In the BO, NMFS concluded that the proposed action is not likely to jeopardize the continued existence of thirteen species of ESA-listed salmonid fishes, Snake River (SR) fall-run Chinook salmon, SR spring/summer-run Chinook salmon, SR sockeye salmon, SR steelhead, Lower Columbia River (LCR) Chinook salmon, Upper Columbia River (UCR) spring-run Chinook salmon, Upper Willamette River (UMR) Chinook salmon, Columbia River chum salmon, Middle Columbia River steelhead, LCR steelhead, UWR steelhead, UCR steelhead, and LCR coho salmon, or destroy or adversely modify designated critical habitat.

On April 2, 2004, NMFS NWRO issued a ''may affect, but not likely to adversely affect'' determination for the effects to marine mammals and sea turtles listed under the ESA from the rehabilitation of the north and south jetties at the MCR area to the ACOE. On October 18, 2005, ACOE contacted NMFS to discuss new information regarding Steller sea lions hauling out on the South Jetty closer to the work site than previously observed. The ACOE requested NMFS' concurrence with a determination of may affect, but not likely to adversely affect Steller sea

lions with regard to this new information. After conversations with NMFS concerning this determination, the ACOE initiated formal consultation for the Steller sea lion on November 30, 2005, for carrying out the rehabilitation of the South Jetty at the MCR. On September 27, 2006, NMFS NWRO issued a BO based on the reinitiation of an ESA section 7 consultation on Steller sea lions. In this BO, NMFS concluded that the proposed action is not likely to jeopardize the continued existence of the Eastern U.S. stock of Steller sea lion. The BO also concurred that no Steller sea lion critical habitat exists within the proposed action area.

Preliminary Determinations

For the reasons discussed in this document and in previously identified supporting documents, NMFS has preliminarily determined that the impact of jetty repair construction at the MCR South Jetty should result, at worst, in the Level B harassment of small numbers of Steller sea lions, California sea lions, and Pacific harbor seals that haul-out in the vicinity of the proposed project area. While behavioral modifications, including temporarily vacating the area around the construction site, may be made by these species to avoid the resultant visual and acoustic disturbance, the availability of alternate areas within MCR and haul-out sites has led NMFS to preliminarily determine that this action will have a negligible impact on Steller sea lion, California sea lion, and Pacific harbor seal populations in the area.

In addition, no take by Level A harassment (injury) or death is anticipated and harassment takes should be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document.

Proposed Authorization

NMFS proposes to issue an IHA to ACOE for the potential harassment of small numbers of Steller sea lions, California sea lions, and harbor seals incidental to repair construction of at the MCR South Jetty in Clatsop County, Oregon, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed activity would result in the harassment of only small numbers of Steller sea lions, California sea lions, and harbor seals, and will have no more than a negligible impact on these marine mammal species and/or stocks.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this request (see **ADDRESSES**).

Dated: December 27, 2006.

P. Michael Payne,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–22483 Filed 12–29–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, as amended (5 U.S.C. Appendix), the Department of Defense gives notice that the Threat Reduction Advisory Committee, intends to modify the existing charter to include the use of subcommittees. This committee and its subcommittees provide necessary and valuable independent advice to the Secretary of Defense and other senior Defense officials in their respective areas of expertise.

It is a continuing DoD policy to make every effort to achieve a balanced membership on all DoD advisory committees. Each committee is evaluated in terms of the functional disciplines, levels of experience, professional diversity, public and private association, and similar characteristics required to ensure a high degree of balance is obtained.

FOR FURTHER INFORMATION CONTACT: Frank Wilson, DoD Committee Management Officer, 703–601–2554.

Dated: December 22, 2006.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 06–9945 Filed 12–29–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

Information on Surplus Land at a Military Installation Designated for Disposal: Naval Air Station, Brunswick, ME—Topsham Annex

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: This notice provides information on the surplus property at Naval Air Station (NAS), Brunswick, ME—Topsham Annex.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Kesler, Director, Base Realignment and Closure Program Management Office, 1455 Frazee Road, San Diego, CA 92108–4310, telephone 619–532–0993, or Mr. David Drozd, Director, Base Realignment and Closure Program Management Office, Northeast, 4911 South Broad Street, Philadelphia, PA 19112–1303, telephone 215–897–4909.

SUPPLEMENTARY INFORMATION: In 2005, NAS, Brunswick, ME, was designated for closure under the authority of the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended (the Act). Pursuant to this designation, on January 23, 2006, land and facilities at this installation were declared excess to the Department of Navy (DON) and available to other Department of Defense components and other federal agencies. The DON has evaluated all timely Federal requests and has made a decision on property required by the Federal Government.

Notice of Surplus Property. Pursuant to paragraph (7)(B) of Section 2905(b) of the Act, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the redevelopment authority for surplus property at NAS, Brunswick, ME—Topsham Annex is published in the **Federal Register.**

Redevelopment Authority. The local redevelopment authority for NAS, Brunswick, ME—Topsham Annex is the Topsham Local Redevelopment Authority. The point of contact is Mr. Gary Brown, Town Manager, Town of Topsham, 22 Elm Street, Topsham, ME 04086, telephone 207–725–5821.

Surplus Property Description. The following is a list of the land and facilities at NAS, Brunswick—Topsham Annex that are surplus to the needs of the Federal Government.

a. *Land.* NAS, Brunswick, ME—Topsham Annex consists of approximately 74 acres of improved and unimproved fee simple land located within Sagadahoc County and the City of Topsham; however, approximately 44 acres of this land is improved with 177 units of housing formerly known as ''Capehart Housing'' and a maintenance building, which are currently outleased to Northeast Housing LLC. Lease expires October 31, 2054. In general, the area will be available when the installation closes in September 2011.

b. *Buildings.* The following is a summary of the buildings and other improvements located on the above-described land that will also be available when the installation closes. Property numbers are available on request.

(1) Administrative/office facility (6 structures). Comments: Approximately 34,435 square feet.

(2) Miscellaneous facilities (4 structures). Comments: Approximately 41,281 square feet. Includes commissary store, fire station, storage, etc.

(3) Paved areas (roads and surface areas). Comments: Approximately 52,220 square yards consisting of roads and other similar pavements. Approximately 35,916 square yards consisting of other surface areas, i.e., parking areas and sidewalks.

(4) Utility facilities (approximately 3 structures) Comments: Measuring systems vary; combined storm drainage and water.

Not included in this notice of surplus are the Housing Quarters, formerly know as ''Capehart Housing'' (51 structures, 177 units) and a maintenance building (pumping station, 529 square feet). These facilities are owned by Northeast Housing LLC.

Redevelopment Planning. Pursuant to section 2905(b)(7)(F) of the Act, the Topsham Local Redevelopment Authority (the LRA) will conduct a community outreach effort with respect to the surplus property and will publish, within 30 days of the date of this notice, in a newspaper of general circulation in the communities within the vicinity of NAS, Brunswick—Topsham Annex, Topsham, ME, the time period during which the LRA will receive notices of interest from State and local governments, representatives of the homeless, and other interested parties. This publication shall include the name, address, and telephone number of the point of contact for the LRA who can provide information on the prescribed form and contents of the notices of interest.

Dated: December 22, 2006.

M.A. Harvison,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E6–22460 Filed 12–29–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Information on Surplus Land at a Military Installation Designated for Disposal: Marine Corps Support Activity, Kansas City, MO

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: This notice provides information on the surplus property at Marine Corps Support Activity, Kansas City, MO.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Kesler, Director, Base Realignment and Closure Program Management Office, 1455 Frazee Road, San Diego, CA 92108–4310, telephone 619–532–0993, or Mr. James E. Anderson, Director, Base Realignment and Closure Program Management Office, Southeast, 4130 Faber Place Drive, Suite 202, North Charleston, SC 29405, telephone 843–743–2147.

SUPPLEMENTARY INFORMATION: In 2005, Marine Corps Support Activity, Kansas City, MO, was designated for closure under the authority of the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended (the Act). Pursuant to this designation, on January 23, 2006, land and facilities at this installation were declared excess to the Department of Navy (DON) and available to other Department of Defense components and other federal agencies. The DON has evaluated all timely Federal requests and has made a decision on property required by the Federal Government.

Notice of Surplus Property. Pursuant to paragraph (7)(B) of Section 2905(b) of the Act, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the redevelopment authority for surplus property at Marine Corps Support Activity, Kansas City, MO, is published in the **Federal Register**.

Redevelopment Authority. The local redevelopment authority for Marine Corps Support Activity, Kansas City, MO, is the City of Kansas City, MO. The point of contact is Mr. Edgar Jordan, Division Head, Property and Relocation, City Planning and Development Department, City of Kansas City, 16th Floor, City Hall, Kansas City, MO 64106, telephone 816–513–2894.

Surplus Property Description. The following is a list of the land and facilities at Marine Corps Support Activity, Kansas City that are surplus to the needs of the Federal Government.

a. *Land.* Marine Corps Support Activity, Kansas City, MO, consists of approximately 147 acres of improved Government-owned land located within Jackson County and the City of Kansas City. In general, of the 147 acres approximately 27.20 acres will be made available when the installation closes in March 2011.

b. *Buildings.* The following is a summary of the buildings and other improvements located on the above-described land that will also be available when the installation closes. Property numbers are available on request.

(1) Administrative/office/training facilities (2 structures). Comments: Approximately 20,375 square feet.

(2) Transient Lodging (2 structures). Comments: Approximately 43,300 square feet.

(3) Medical and Dental facilities (1 structure). Comments: Approximately 10,500 square feet.

(4) Barracks (1 structure) Comments: Approximately 48,000 square feet.

(5) Supply and Exchange facilities (3 structures). Comments: Approximately 52,100 square feet.

(6) Recreational facilities include pools, bath house, pavilion, ball fields, tennis court, and playing fields. Comments: Measuring systems vary.

Redevelopment Planning. Pursuant to Section 2905(b)(7)(F) of the Act, the City of Kansas City (the LRA) will conduct a community outreach effort with respect to the surplus property and will publish, within 30 days of the date of this notice, in a newspaper of general circulation in the communities within the vicinity of Marine Corps Support Activity, Kansas City, MO, the time period during which the LRA will receive notices of interest from State and local governments, representatives of the homeless, and other interested parties. This publication shall include the name, address, telephone number, and the point of contact for the LRA who can provide information on the prescribed form and contents of the notices of interest.

Dated: December 22, 2006.

M.A. Harvison,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E6–22470 Filed 12–29–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Nominations for Membership on Ocean Research and Resources Advisory Panel

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Ocean Research and Resources Advisory Panel (ORRAP) is soliciting nominations for new members.

DATES: Nominations should be submitted no later than February 7, 2007.

ADDRESSES: Nominations should be submitted via e-mail to LCDR Cory Huyssoon, U.S. Navy, at *huyssoc@onr.navy.mil*. *Contact Information:* Office of Naval Research, 875 North Randolph Street, Suite 1425, *ATTN:* ONR Code 322B Room 1075, Arlington, VA 22203–1995, telephone 703–696–4395.

FOR FURTHER INFORMATION CONTACT: Dr. Melbourne G. Briscoe, Office of Naval Research, 875 North Randolph Street, Suite 1425, Arlington, VA 22203–1995, telephone 703–696–4120.

SUPPLEMENTARY INFORMATION: ORRAP (officially known as the Ocean Research Advisory Panel, ORAP) is a statutorily mandated Federal advisory committee that provides senior scientific advice to the National Oceanographic Research Leadership Council (NORLC) and the Interagency Committee on Ocean Science and Resource Management Integration (ICOSRMI). ORAP advises the NORLC and ICOSRMI on national ocean policies, procedures, resource management, and other responsibilities that NORLC/ICOSRMI considers appropriate.

Panel Member Duties and Responsibilities: Members of the panel represent the National Academy of Sciences, the National Academy of Engineering, the Institute of Medicine, ocean industries, state governments, academia, and others including individuals who are eminent in the fields of marine science and technology, marine policy, or related fields, including ocean resource management and ocean-related social sciences and socio-economics. Members are appointed for not more than four years, and are not normally compensated except for travel expenses and per diem while away from their homes in performance of services for the panel.

The panel meets for at least one two-day public meeting per year, but probably meets three times per year, on dates agreeable by the panel members; attendance at meetings is expected. Intercessional activities not involving formal decisions or recommendations may be carried out electronically, and the panel may establish sub-panels composed of less than full membership to carry out panel duties.

Nominations: Any interested person or organization may nominate qualified individuals (including one's self) for membership on the panel. Nominated individuals should have extended expertise and experience in the field of ocean science and/or ocean resource management. Nominations should be identified by name, occupation, position, address, telephone number, e-mail address, and a brief paragraph describing their qualifications in the context of the ORRAP Charter (*http://www.nopp.org/Dev2Go.web?id=221086*). A signed résumé or curriculum vitae should be included in the nomination package.

Process and Deadline for Submitting Nominations: Submit nominations via e-mail to *huyssoc@onr.navy.mil* no later than February 7, 2007. Nominations will be acknowledged and nominators will be informed of the new panel members, which are ultimately selected and approved. From the nominees identified by respondents to this **Federal Register** notice, the ORRAP Nomination Committee will down select to a short-list of available candidates (no more than 150 percent of the available open positions for consideration). These selected candidates will be required to fill-out the ''Confidential Financial Disclosure Report'' OGE form 450. This confidential form will allow Government officials to determine whether there is a statutory conflict between a person's public responsibilities and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form and additional guidance may be viewed from the following URL address: (*http://www.ethics.navy.mil/forms.asp#450*).

In accordance with section 7903 of title 10, United States Code, and with DoD FACA regulations, the short-list of candidates will then be submitted for selection by the Secretary of the Navy with approval by the Secretary of Defense. In order to have the collective breadth of experience in the panel and maintain full panel membership, six new candidates are expected to be selected with terms to begin in July 2007.

The selection of new panel members will be based on the nominee's qualifications to provide senior scientific and resource management advice to the NORLC/ICOSRMI; the availability of the potential panel member to fully participate in the panel meetings; absence of any conflict of interest or appearance of lack of impartiality, and lack of bias; the candidates' areas of expertise and professional qualifications; and achieving an overall balance of different perspectives and expertise on the panel.

Dated: December 27, 2006.

R.K. Giroux,

Commander, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. E6–22476 Filed 12–29–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; NCP Coatings, Inc.

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to NCP Coatings, Inc., a revocable, nonassignable, exclusive license in the United States and certain foreign countries, the Government-owned inventions described in U.S. Patent Application No. 10/346,099 entitled ''Diols Formed by Ring-Opening of Epoxies'', Navy Case No. 84,308; U.S. Patent Application No. 10/346,061 entitled ''Diols Formed by Ring-Opening of Epoxies'', Navy Case No. 84,472; and U.S. Patent Application No. 10/979,843 entitled ''Diols Formed by Ring-Opening of Epoxies'', Navy Case No. 96,854 and any continuations, divisionals or re-issues thereof.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than January 17, 2007.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Rita Manak, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone (202) 767–3083. Due to U.S. Postal delays, please fax (202) 404–7920, e-mail: *rita.manak@nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR part 404.)

Dated: December 21, 2006.

M.A. Harvison,

Lieutenant Commander, Judge Advocate General's Corp, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E6–22458 Filed 12–29–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 2, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: December 27, 2006.

James Hyler,

Acting Leader, Information Policy and Standard Team, Regulatory Information Management Services. Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Midwest Regional Educational Laboratory Needs Assessment and Focus Groups.

Frequency: Monthly.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; individuals or household; businesses or other for-profit; not-for-profit institutions; farms; Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 2,840.

Burden Hours: 993.

Abstract: Documentation included in this submission include data collection instruments and sample designs for gathering information about the educational needs of state departments, districts, schools, and other educational stakeholders in the Midwest region. Information regarding regional needs is gathered as part of Task 1.1 of the Midwest Regional Laboratory contract and will be used to set priorities for selecting content on particular issues, practices, and policies that warrant attention. Analyses of regional educational needs assessments will be used to identify training, technical assistance priorities and needs, to monitor such needs and activities, and to ensure that the activities respond to the region's needs.

Requests for copies of the information collection submission for OMB review may be accessed from *http://www.edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3213. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* 202–245–6432. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–22498 Filed 12–29–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Correction Notice.

SUMMARY: On December 21, 2006, the Department of Education published a notice in the **Federal Register** (Page 76641, Column 2) for the information collection, ''Social and Character Development Research Program National Evaluation.'' This notice hereby corrects the burden hours to 8,081 and the annual responses to 15,859.

The IC Clearance Official, Regulatory Information Management Services, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: December 27, 2006.

James Hyler,

Acting Leader, Information Policy and Standard Team, Regulatory Information Management Services, Office of Management.

[FR Doc. E6–22490 Filed 12–29–06; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2006–0931; FRL–8265–2]

Agency Information Collection Activities: Submission to OMB for Review and Approval: Comment Request: National Pollution Discharge Elimination System (NPDES). Modification and Variance Requests: EPA ICR Number: 0234.09, OMB Control Number: 2080–0021

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on January 31, 2007. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before March 5, 2007.

ADDRESSES: Submit your comments, identified by Docket ID Number: EPA–HQ–OECA–2006–0931, by one of the following methods:

- *http://www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail: helm.john@epa.gov*.
- *Fax:* 202–564–0029.
- *Mail:* DMR–QA Permittee Data Report Form, EPA Docket Center, (EPA/DC) Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *OMB at:* Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

Instruction: Direct your comments to Docket ID No EPA–HQ–OECA–2006–0931. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. (For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.)

FOR FURTHER INFORMATION CONTACT: John Helm, Office of Compliance, Laboratory Data Integrity Branch, 2225A, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* 202–564–4144; fax number: 202–564–0029; e-mail address: *helm.john@epa.gov*.

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID Number. EPA–HQ–OECA–2006–0931, which is available for online viewing at *http://www.regulations.gov*, or in-person viewing at the DMR–QA Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Docket is 202–566–1692.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested In?

Pursuant to section 3506(c))(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under **DATES**.

7. To ensure proper receipt by EPA, be sure to identify in the subject line on the first page of your response the docket ID number assigned to this action. You may also provide the name, date, and **Federal Register** citation.

Affected entities: Entities potentially affected by this action are NPDES permitted facilities.

Abstract: Discharge Monitoring Report-Quality Assurance (DMR–QA) participation is mandatory for major and selected minor permit holders under the Clean Water Act's National Pollution Discharge Elimination System (NPDES), Section 308. The DMR–QA study is designed to evaluate the entire process used by permittes to routinely report monitoring results in Discharge Monitoring Reports (DMRs). The study addresses the analytic ability of the laboratories that perform chemical, microbiological and whole effluent toxicity (WET) analyses required in the NPDES permits and the ability to properly report these results in the DMRs. Under DMR–QA, the permit holder is responsible for obtaining ungraded results of analyses of test samples performed by in-house and/or contract laboratories, and submitting these results to the appropriate federal or state NPDES regulatory authority and the commercial proficiency testing (PT) provider that supplies the test samples. Permit holders are responsible for submitting corrective action reports to the appropriate regulatory authority.

The OMB control numbers for EPA's regulations in Title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other

appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 4.5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed: To review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, verifying, in processing, maintaining, and providing information; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 7516.

Frequency of response: Annual.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 27,578 hours.

Number of affected facilities is: 7,516.

Estimated total annual costs: This includes an estimated burden cost of $1,397,649, and an estimated cost of $538,554 for capital investment or maintenance and operational costs.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact John Helm.

Dated: December 19, 2006.

Richard Colbert,

Director, Agriculture Division.

[FR Doc. E6–22479 Filed 12–29–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 26, 2007.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) P.O. Box 55882, Boston, Massachusetts 02106-2204:

1. Bangor Bancorp, MHC, Bangor, Maine, to become a bank holding company by acquiring Bangor Savings Bank, Bangor, Maine.

B. Federal Reserve Bank of Cleveland (Cindy West, Manager) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Park National Corporation, Newark, Ohio; to acquire 100 percent of the voting shares of Vision Bancshares, Inc., Panama City, Florida, and thereby indirectly acquire Vision Bank, Gulf Shores, Alabama, and Vision Bank, Panama City, Florida.

C. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Bank of America Corporation, Charlotte, North Carolina; to acquire 100 percent of the voting shares of U.S. Trust Corporation, New York, New York, and thereby indirectly acquire United States Trust Company, National Association, New York, New York.

D. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Lotus Bancorp, Inc., Novi, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Lotus Bank (in organization), Novi, Michigan.

Board of Governors of the Federal Reserve System, December 27, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–22472 Filed 12–29–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Request for Nominations of Candidates To serve on the Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry, Centers for Disease Control and Prevention, Department of Health and Human Services

The National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (NCEH/ATSDR) is soliciting nominations for possible membership on the Board of Scientific Counselors. This Board provides advice and guidance to the Secretary, HHS; the Director, CDC; and the Director, NCEH/ATSDR, regarding program goals, objectives, strategies, and priorities in fulfillment of the agencies' mission to protect and promote people's health. The Board provides advice and guidance to help NCEH/ATSDR work more efficiently and effectively with its various constituents and to fulfill its mission in protecting America's health.

Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishments of the Board's objectives. Nominees will be selected from experts having experience in preventing human diseases and disabilities caused by environmental conditions. Experts in the disciplines of toxicology, epidemiology, environmental or occupational medicine, behavioral science, risk assessment, exposure assessment, and

experts in public health and other related disciplines will be considered. Consideration is given to representation from diverse geographic areas, gender, ethnic and minority groups, and the disabled. Members may be invited to serve up to four-year terms. Nominees must be U.S. citizens.

The following information must be submitted for each candidate: Name, affiliation, address, telephone number and current curriculum vitae. E-mail addresses are requested if available.

Nominations should be sent, in writing, and postmarked or e-mailed by January 16, 2007 to: Sandra Malcom, Committee Management Specialist, NCEH/ATSDR, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., (MS–E28), Atlanta, Georgia 30333 or *smalcom@cdc.gov*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.

Dated: December 22, 2006.

Elaine Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. E6–22459 Filed 12–29–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meetings of the Advisory Committee for Injury Prevention and Control, and its Subcommittee, the Science and Program Review Subcommittee

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following subcommittee and committee meetings.

Name: Science and Program Review Subcommittee (SPRS).

Time and Date: 8:30 a.m.–11:30 a.m., January 30, 2007.

Place: Crowne Plaza Hotel Buckhead, 3377 Peachtree Road, NE., Atlanta, GA 30326.

Status: Open: 8:30 a.m.–11:30 a.m., January 30, 2007.

Purpose: The SPRS provides advice on the needs, structure, progress and performance of programs of the National Center for Injury Prevention and Control (NCIPC).

Matters To Be Discussed: The subcommittee will meet January 30, 2007, to provide recommendations on updating and modifying the Injury Research Agenda.

Agenda items are subject to change as priorities dictate.

Name: Advisory Committee for Injury Prevention and Control (ACIPC).

Times and Dates: 1 p.m.–5:30 p.m., January 30, 2007, 9 a.m.–12 p.m., January 31, 2007.

Place: Crowne Plaza Hotel Buckhead, 3377 Peachtree Road, NE., Atlanta, GA 30326.

Status: Open: 1 p.m.–5:30 p.m., January 30, 2007. Open: 9 a.m.–12 p.m., January 31, 2007.

Purpose: The committee advises and makes recommendations to the Secretary, Department of Health and Human Services, the Director, CDC, and the Director, NCIPC regarding feasible goals for the prevention and control of injury. The committee makes recommendations regarding policies, strategies, objectives, and priorities, and reviews progress toward injury prevention and control.

Matters To Be Discussed: The meeting will be open to the public. The ACIPC will be discussing three areas of focus and how the ACIPC can advance the field of injury prevention and control.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Ms. Amy Harris, Executive Secretary, ACIPC, NCIPC, CDC, 4770 Buford Highway, NE., M/S K61 Atlanta, Georgia 30341–3724, telephone (770) 488–4936.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: December 22, 2006.

Elaine Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–22471 Filed 12–29–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Request for State Data Needed to Determine the Amount of a Tribal Family Assistance Grant.

OMB No.: 0970–0173.

Description: 42 U.S.C. 612 (section 412 of the Social Security Act) gives federally recognized Indian Tribes the opportunity to apply to operate a Tribal Temporary Assistance for Needy Families (TANF) program. The Act specifies that the Secretary shall use state submitted data to determine the amount of the grant to the Tribe. This form (letter) is used to request those data from the states. ACF is proposing to extend this information collection without change.

Respondents: States that have Indian Tribes applying to operate a TANF program.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Request for State Data Needed to Determine the Amount of a Tribal Family Assistance Grant	15	1	42	630

Estimated Total Annual Burden Hours: 630.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: December 22, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06–9938 Filed 12–29–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Form ACF–IV–E–1: Title IV–E Foster Care and Adoption Assistance Financial Report.

OMB No.: 0970–0205.

Description: State agencies administer the Foster Care and Adoption Assistance Programs under Title IV–E of the Social Security Act. The Administration for Children and Families provides Federal funding at the rate of 50 percent for most of the administrative costs and at other rates for other specific categories of costs as detailed in Federal statute and regulations. This form is submitted quarterly by each State to estimate the funding needs for the upcoming fiscal quarter and to report expenditures for the fiscal quarter just ended. This form is also used to provide annual budget projections from each State. The information collected in this report is used by this agency to calculate quarterly Federal grant awards and to enable this agency to submit budget requests to Congress through the Department and to enable oversight of the financial management of the programs.

Respondents: State agencies (including the District of Columbia and Puerto Rico) administering the Foster Care and Adoption Assistance programs under Title IV–E of the Social Security Act.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Form ACF–IV–E–1	52	4	17	3,536

Estimated Total Annual Burden Hours: 3,536.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: December 22, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06–9939 Filed 12–29–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: DHHS/ACF/ASPE/DOL Enhanced Services for the Hard-to-Employ Demonstration and Evaluation: Rhode Island 15-Month Survey Amendment.

OMB No.: 0970–0276.

Description: The Enhanced Services for the Hard-to-Employ Demonstration and Evaluation Project (HtE) seeks to learn what works in this area to date and is explicitly designed to build on past research by rigorously testing a wide variety of approaches to promote employment and improve family functioning and child well-being. The HtE project is designed to help Temporary Assistance for Needy Families (TANF) recipients, former TANF recipients, or low-income parents who are hard-to-employ. The project is sponsored by the Office of Planning, Research and Evaluation (OPRE) of the Administration for Children and Families (ACF), the Office of the Assistant Secretary for Planning and Evaluation (ASPE) in the U.S. Department of Health and Human Services (HHS), and the U.S. Department of Labor (DOL).

The evaluation involves an experimental, random assignment design in four sites, testing a diverse set of strategies to promote employment for low-income parents who face serious obstacles to employment. The four include: (1) Intensive care management to facilitate the use of evidence-based treatment for major depression among parents receiving Medicaid in Rhode Island; (2) job readiness training, worksite placements, job coaching, job development and other training opportunities for recent parolees in New York City; (3) pre-employment services and transitional employment for long-term TANF participants in Philadelphia; and (4) home- and center-based care,

enhanced with self-sufficiency services for low-income families who have young children or are expecting in Kansas and Missouri.

Materials for follow-up surveys for each of these sites were previously submitted to OMB and were approved. The purpose of this submission is to add physiological measures to the follow-up effort to the Rhode Island study.

Respondents: The respondents to this component of the Rhode Island follow-up survey will be low-income parents and their children from the Rhode Island site currently participating in the HtE Project. As described in the prior OMB submission, these parents are Medicaid recipients between the ages of 18 and 45 receiving Medicaid through the managed care provider United Behavioral Health (UBH) in Rhode Island who meet study criteria with regard to their risk for depression. Children are the biological, adopted, and step-children of these parents, between the ages of 1 and 18 years of age.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
RI 15–month, parent physiological component.	400	8	5 minutes or .08 hrs.	266.66
RI 15–month, young child physiological component.	160	8	5 minutes or .08 hrs.	106.66
RI 15–month, youth physiological component.	242	8	5 minutes or .08 hrs.	161.33
Estimated Total Annual Burden Hours			.....	534.65

Additional Information

Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov*.

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: December 22, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06–9940 Filed 12–29–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Filing of Annual Reports

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that, as required by the Federal Advisory Committee Act, the agency has filed with the Library of Congress the annual reports of those FDA advisory committees that held closed meetings during fiscal year 2006.

ADDRESSES: Copies are available from the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, 301–827–6860.

FOR FURTHER INFORMATION CONTACT: Theresa L. Green, Advisory Committee Oversight and Management Staff (HF–4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1220.

SUPPLEMENTARY INFORMATION: Under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. app. 1) and 21 CFR 14.60(d), FDA has filed with the Library of Congress the annual reports for the following FDA advisory committees that held closed meetings during the period October 1, 2005 through September 30, 2006.

Center for Biologics Evaluation and Research:

Allergenic Products Advisory Committee

Blood Products Advisory Committee

Cellular, Tissue, and Gene Therapies Advisory Committee

Vaccines and Related Biological Products Advisory Committee

Center for Drug Evaluation and Research:

Nonprescription Drugs Advisory Committee

Anesthetic and Life Support Drugs Advisory Committee

Center for Devices and Radiological Health:

Medical Devices Advisory Committee (consisting of reports for General and Plastic Surgery Devices Panel, Obstetrics and Gynecology Devices Panel, Ophthalmic Devices Panel, Orthopaedic and Rehabilitation Devices Panel, and Radiological Devices Panel)

National Center for Toxicological Research:

Science Advisory Board to the National Center for Toxicological Research

Annual reports are available for public inspections between 9 a.m. and 4 p.m., Monday through Friday, at the following locations:

1. The Library of Congress, Madison Bldg., Newspaper and Current Periodical Reading Room, 101 Independence Ave. SE., rm. 133, Washington, DC; and
2. The Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Dated: December 22, 2006.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. E6–22450 Filed 12–29–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0573]

Draft Animal Cloning Risk Assessment; Proposed Risk Management Plan; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of, and is requesting comment on, a draft risk assessment on animal cloning. FDA's Center for Veterinary Medicine (CVM) developed this draft risk assessment to evaluate the health risks to animals involved in the process of cloning and to evaluate the food consumption risks that may result from edible products derived from animal clones or their progeny. FDA is also announcing the availability of, and is requesting comment on, a proposed risk management plan for animal clones and their progeny. The proposed risk management plan takes into account the risks identified in the draft risk assessment and sets out proposed measures that FDA might use to manage those risks. In addition, FDA is announcing availability of draft guidance for industry #179 for public comment. This draft guidance describes FDA's recommendations regarding the use of edible products from animal clones and their progeny in human food or in animal feed.

DATES: Submit written or electronic comments on the draft risk assessment document, the proposed risk management plan, and the draft guidance for industry by April 3, 2007. FDA will accept comments, data, and information after the deadline, but to ensure consideration by the agency in any final documents, comments must be received by this date. Comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft risk assessment, proposed risk management plan, or the draft guidance for industry to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send a self-addressed, adhesive label to assist that office in processing your request. Submit written comments on the draft risk assessment, proposed risk management plan, or draft guidance for industry to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the documents.

FOR FURTHER INFORMATION CONTACT: Larisa Rudenko, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–453–6842, e-mail: *clones@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In July 2001, FDA's CVM issued an update on livestock cloning (available at *http://www.fda.gov/cvm/CVM_Updates/clones.htm*) and indicated its intention to work with stakeholders to assess potential risks presented by cloning food-producing animals. It also requested that companies voluntarily refrain from introducing animal clones, their progeny, or their food products (such as milk or meat) into the human or animal food supply, pending completion of the risk assessment process. The public participation phase of this process begins with the release of draft documents entitled ''Animal Cloning: A Draft Risk Assessment,'' ''Animal Cloning: Proposed Risk Management Plan for Clones and Their Progeny,'' and ''Draft Guidance for Industry #179: Use of Edible Products From Animal Clones or Their Progeny for Human Food or Animal Feed.''

Among the goals of our draft risk assessment were the determination of whether somatic cell nuclear transfer (SCNT), the process used to produce the clones being considered in the risk assessment, poses any unique risks to animals involved in cloning relative to other assisted reproductive technologies, and whether foods derived from animal clones or their progeny pose consumption risks greater than those posed by foods derived from their conventional counterparts. It specifically does not consider risk issues that may be posed by genetically engineered animals.

The draft risk assessment has been peer reviewed in accordance with the Office of Management and Budget's Information Quality Peer Review Bulletin. The peer reviewers' comments and the agency's response to them are posted on the Internet with the draft risk assessment (see the Electronic Access section of this document).

The proposed risk management plan describes proposed measures that the agency might use to address animal health and food consumption risks identified in the draft risk assessment that are within the agency's purview. It also describes the agency's plans with regard to issues that are not within the agency's authority to manage (e.g., ethics) regarding animal cloning.

The draft guidance for industry describes FDA's recommendations regarding the introduction of edible products from animal clones and their progeny into the food and feed supply. FDA will consider information received during the comment period in its preparation of a final risk assessment. To that end, FDA requests that any producers or breeders of clones who have additional data on the health of the clones or their progeny or composition of food products (i.e., meat or milk) derived from clones or their progeny share those data with us. Additionally, the agency reiterates that the release of these draft documents does not affect its request to industry to continue to refrain from introducing food products from clones and their progeny into the marketplace.

II. Significance of Guidance

The draft guidance for industry is a level 1 draft guidance that is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance represents the agency's current thinking on the topic. The draft guidance document does not create or confer any rights for or on any person and will not operate to bind FDA or the public. Alternative methods may be used as long as they satisfy the requirements of the applicable statutes and regulations.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding the draft risk assessment document, the proposed risk management plan, and the draft guidance for industry. For convenience in reviewing the comments, FDA requests that comments be separately identified as to which document they address. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this

document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the documents at *http://www.fda.gov/cvm/cloning.htm*. In an effort to better ensure broad awareness of this **Federal Register** notice, FDA will announce it and make copies available through the FDA Dockets Listserv (*http://www.fda.gov/ohrms/dockets/FDAMAIL/DMBemaillist.htm*). To be added to any of FDA's free e-mail subscription services go to *http://www.fda.gov*. Click on ''Subscribe to FDA's E-mail Lists,'' then follow the instructions provided.

Dated: August 18, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 06–9927 Filed 12–28–06; 11:00 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006D–0504]

Draft Guidance for Industry and Food and Drug Administration Staff; Radio-Frequency Wireless Technology in Medical Devices; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Draft Guidance for Industry and FDA Staff; Radio-Frequency Wireless Technology in Medical Devices.'' This draft guidance document addresses issues relevant to the safe and effective use of radio frequency (RF) wireless technology in medical devices, including wireless coexistence, performance, data integrity, security, and electromagnetic compatibility (EMC). These issues involve all stages of the product life cycle and should be considered in preparing premarket submissions; identifying, documenting, and implementing product design requirements, as well as design verification and validation; and risk management processes and procedures.

DATES: Submit written or electronic comments on the draft guidance by April 2, 2007.

ADDRESSES: Submit written requests for single copies of the draft guidance entitled ''Draft Guidance for Industry and FDA Staff: Radio-Frequency Wireless Technology in Medical Devices'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 240–276–3151.

Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Donald Witters, Center for Devices and Radiological Health (HFZ–130), Food and Drug Administration, 12725 Twinbrook Pkwy., Rockville, MD 20852, 301–827–4955.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has developed this draft guidance document to assist industry, systems and service providers, consultants, FDA staff, and others in the design, development, and evaluation of RF wireless technology in medical devices. The RF wireless emissions from one product or device can affect the function of another, the electromagnetic environments where medical devices are used may contain many sources of RF energy, and the use of RF wireless technology in and around medical devices is increasing. As a result, the draft guidance recommends that manufacturers address concerns about the potential effects of the use of RF wireless technology in and around medical devices on the ability of medical devices to function properly and the resultant safety of patients and operators.

This draft guidance references national and international standards and discusses some of FDA's regulatory requirements, including premarket requirements (21 CFR parts 807 and 814). The draft guidance document also discusses quality system requirements as they specifically apply to RF wireless technology in medical devices, including design and development activities (21 CFR part 820).

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on RF wireless technology in and around medical devices. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. To receive ''Draft Guidance for Industry and FDA Staff; Radio-Frequency Wireless Technology in Medical Devices'' you may either send an e-mail request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 240–276–3151 to receive a hard copy. Please use the document number 1618 to identify the guidance you are requesting.

CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html*. Guidance documents are also available on the Division of Dockets Management Internet site at *http://www.fda.gov/ohrms/dockets*.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485; the collections of information in 21 CFR part 807 have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814 have been approved under OMB control number 0910–0231; and the collections

of information in 21 CFR part 820 have been approved under OMB control number 0910–0073.

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), written or electronic comments regarding this document. Submit a single copy of electronic comments or submit two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 19, 2006.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. E6–22449 Filed 12–29–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee J—Population and Patient-Oriented Training.

Date: February 19–20, 2007.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Arlington Gateway, 801 North Glebe Road, Arlington, VA 22203.

Contact Person: Ilda M McKenna, PhD, Scientific Review Administrator, Research Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard Room 8111, Bethesda, MD 20892, 301–496–7481, *mckennai@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS.)

Dated: December 21, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–9952 Filed 12–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Stroke Panel.

Date: January 7–8, 2007.

Time: 7:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Katherine Woodbury, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–5980, *kw47o@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Training and Career Development.

Date: January 9, 2007.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Raul A. Saavedra PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, NSC; 6001 Executive Blvd., STE. 3208, Bethesda, MD 20892–9529, (301) 496–9223, *saavedrr@ninds.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Epilepsy and Aging.

Date: January 10, 2007.

Time: 5 p.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: William C. Benzing, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892, (301) 496–0660, *benzingw@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Planning Grants Review.

Date: January 11, 2007.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Shantadurga Rajaram, PHD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, Msc 9529, Bethesda, MD 20852, (301) 435–6033, *rajarams@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, K99 R00 Review.

Date: January 12, 2007.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Joann McConnell, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, Msc 9529, Bethesda, MD 20892–9529, (301) 496–5324, *mcconnej@ninds.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93,854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: December 21, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–9950 Filed 12–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council on Aging.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Aging.

Date: January 30–31, 2007.

Closed: January 30, 2007, 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20892.

Open: January 31, 2007, 8 a.m. to 12:30 p.m.

Agenda: Call to Order; Task Force on Minority Aging Research report; Working Group on Program report; Geriatrics and Clinical Gerontology Program Review report; and Program Highlights.

Place: National Institutes of Health, Building 031, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: January 31, 2007, 12:30 p.m. to 2 p.m.

Agenda: To review and evaluate program documents.

Place: National Institutes of Health, Building 31, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Robin Barr, PhD, Director, Office of Extramural Affairs, National Institute on Aging, 7201 Wisconsin Avenue, Gateway Bldg., Suite 2C218, Bethesda, MD 20814, 301–496–9322.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nih.gov/nia/naca/*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 21, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–9951 Filed 12–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Initial Review Group, Mental Health Services in Non-Specialty Settings.

Date: February 6–7, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Aileen Schulte, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–1225, *aschulte@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Initial Review Group, Mental Health Services in MH Specialty Settings.

Date: February 7, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, D.C., 2401 M Street, NW., Washington, DC 20037.

Contact Person: Marina Broitman, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608, 301–402–8152, *mbroitma@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Initial Review Group, Interventions Committee for Disorders Involving Children and Their Families.

Date: February 13–14, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Christopher S. Sarampote, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9608, Bethesda, MD 20892–9608, Bethesda, MD 20892–9608, 301–443–1959, *csarampo@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Initial Review Group, Interventions Committee for Adult Mood and Anxiety Disorders.

Date: February 13–14, 2007.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20592–9606, 301–443–7861, *dsommers@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Initial Review Group, Interventions Committee for Disorders Related to Schizophrenia, Late Life, or, Personality.

Date: February 16, 2007.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Tracy Waldeck, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6132, MSC 9608, Bethesda, MD 20852–9609, 301–435–0322, *waldeckt@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: December 21, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–9953 Filed 12–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Instrumentation and Systems Development Study Section, February 12, 2007, 8:30 a.m. to February 14, 2007, 5 p.m., Marriott Courtyard, 13480 Maxella Avenue, Marina Del Rey, CA, 90043 which was published in the **Federal Register** on December 14, 2006, 71 FR 75266–75268.

The meeting will be held February 12, 2007, to February 13, 2007. The meeting time and location remain the same. The meeting is closed to the public.

Dated: December 21, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–9949 Filed 12–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Language and Communication Study Section, February 15, 2007, 7:30 a.m. to February 15, 2007, 6:30 p.m., Crowne Plaza Union Square, 480 Sutter Street, San Francisco, CA 94108 which was published in the **Federal Register** on December 14, 2006, 71 FR 75266–75268.

The meeting will be held February 15, 2007, 8 a.m. to February 16, 2007, 5 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: December 21, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–9954 Filed 12–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5041–N–51]

Notice of Proposed Information Collection: Comment Request; Comprehensive Needs Assessment (CNA)

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 5, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410 or *Lillian_L_Deitzer@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Kimberley Sanford-Munson, Office of Multifamily Asset Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–3730 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Comprehensive Needs Assessment (CNA).

OMB Control Number, if applicable: 2502–0505.

Description of the need for the information and proposed use: This information is necessary for HUD to review and assess the current and future resources and needs of multifamily housing projects. Owners and non-profit entities submit this information.

Agency form numbers, if applicable: HUD–96001, HUD–96002, HUD–96003.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total number of burden hours needed to prepare the information collection is 1,105,000; the number of respondents is 26,000 generating approximately 78,000 annual responses; the frequency of response is annually and every 5 years; and the estimated number of time needed to prepare the response varies from 1.25 hours to 40 hours.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: December 22, 2006.

Frank L. Davis,

General Deputy Assistant Secretary for Housing, Deputy Federal Housing Commissioner.

[FR Doc. E6–22504 Filed 12–29–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent to prepare a Comprehensive Conservation Plan and Environmental Assessment for ACE Basin National Wildlife Refuge in Charleston County, SC

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: The Fish and Wildlife Service, Southeast Region, intends to gather information necessary to prepare a comprehensive conservation plan and environmental assessment pursuant to the National Environmental Policy Act of 1969 and its implementing regulations.

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, requires the Service to develop a comprehensive conservation plan for each national wildlife refuge. The purpose in developing a comprehensive conservation plan is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, plans identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

The purpose of this notice is to achieve the following:

(1) Advise other agencies and the public of our intentions, and

(2) Obtain suggestions and information on the scope of issues to include in the environmental document.

DATES: Please provide written comments on the scope of issues to include in the environmental document by March 5, 2007.

ADDRESSES: Comments, questions, and requests for more information regarding the ACE Basin National Wildlife Refuge planning process should be sent to: Van Fischer, Natural Resource Planner, South Carolina Lowcountry Refuge Complex, 5801 Highway 17 North, Awendaw, South Carolina 29429; Telephone: 843/928–3264; Fax: 843/928–3803; Electronic mail: *van_fischer@fws.gov.*

SUPPLEMENTARY INFORMATION: Special mailings, newspaper articles, and other media announcements will be used to inform the public and state and local government agencies of the opportunities for input throughout the planning process. Open-house style public meetings will be held during the scoping phase of the comprehensive conservation plan development process. During this process, many elements will be considered, including wildlife and habitat management, public use opportunities, and cultural resource protection. Public input during the planning process is essential. All comments received become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act and other Service and Departmental policies and procedures.

ACE Basin National Wildlife Refuge was established on September 20, 1990, to help protect the largest undeveloped estuary along the Atlantic Coast. It consists of rich bottomland hardwoods and freshwater and saltwater marshes, offering food and cover to a variety of wildlife. The refuge is part of an overall ACE Basin Project Habitat Protection and Enhancement Plan implemented by a coalition consisting of the Fish and Wildlife Service, South Carolina Department of Natural Resources, Ducks Unlimited, The Nature Conservancy, The Low Country Open Land Trust, Westvaco, and private landowners of the ACE Basin.

The name ACE Basin represents the Ashepoo, Combahee, and Edisto Rivers, which form the estuary and parts of the refuge boundary. The entire basin encompasses more than 350,000 acres, of which the refuge comprises just less than 12,000 acres. Additional information concerning this refuge may be found at the Service's Internet site: *http://www.fws.gov/refuges.*

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: December 1, 2006.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. E6–22455 Filed 12–29–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Conservation Plan and Environmental Assessment for Cape Romain National Wildlife Refuge in Charleston County, SC

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: The Fish and Wildlife Service, Southeast Region, intends to gather information necessary to prepare a comprehensive conservation plan and environmental assessment pursuant to the National Environmental Policy Act of 1969 and its implementing regulations.

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, requires the Service to develop a comprehensive conservation plan for each national wildlife refuge. The purpose in developing a comprehensive conservation plan is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, plans identify wildlife-dependent opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

The purpose of this notice is to achieve the following:

(1) Advise other agencies and the public of our intentions, and

(2) Obtain suggestions and information on the scope of issues to include in the environmental document.

DATES: Please provide written comments on the scope of issues to include in the environmental document by March 5, 2007.

ADDRESSES: Comments, questions, and requests for more information regarding the Cape Romain National Wildlife Refuge planning process should be sent to: Van Fischer, Natural Resource Planner, South Carolina Lowcountry Refuge Complex, 5801 Highway 17 North, Awendaw, South Carolina 29429; *Telephone:* 843/928–3264; *Fax:* 843/928–3803; *Electronic mail: van_fischer@fws.gov*

SUPPLEMENTARY INFORMATION: Special mailings, newspaper articles, and other media announcements will be used to inform the public and state and local government agencies of the opportunities for input throughout the planning process. Open-house style public meetings will be held during the scoping phase of the comprehensive conservation plan development process. During this process, many elements will be considered, including wildlife and habitat management, public recreational activities, and cultural resource protection. Public input into the planning process is essential. All comments received become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act and other Service and Departmental policies and procedures.

Cape Romain National Wildlife Refuge was established in 1932 to provide wintering habitat for migratory birds. The refuge's 64,000 acres encompass a 20-mile segment of the Atlantic Coast, which includes barrier islands, saltwater marshes, coastal waterways, fresh and brackish water impoundments, and maritime forests. Of the land area, 28,000 acres are preserved within the National Wilderness Preservation System. Additional information concerning this refuge may be found at the Service's Internet site: *http://www.fws.gov/refuges*.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: December 2, 2006.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. E6–22465 Filed 12–29–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Conservation Plan and Environmental Assessment for the Central Arkansas National Wildlife Refuge Complex

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: This notice advises the public that the Fish and Wildlife Service, Southeast Region, intends to gather information necessary to prepare a comprehensive conservation plan and environmental assessment pursuant to the National Environmental Policy Act of 1969 and its implementing regulations. This plan and environmental assessment will cover Bald Knob National Wildlife Refuge, Big Lake National Wildlife Refuge, Cache River National Wildlife Refuge, and Wapanocca National Wildlife Refuge, the refuges that make up the Central Arkansas National Wildlife Refuge Complex. The refuges are in Crittendon, Jackson, Mississippi, Monroe, Prairie, White, and Woodruff Counties, Arkansas. The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, requires the Service to develop a comprehensive conservation plan for each national wildlife refuge. The purpose in developing a comprehensive conservation plan is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, plans identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

The purpose of this notice is to achieve the following:

(1) Advise other agencies and the public of our intentions, and

(2) Obtain suggestions and information on the scope of issues to include in the environmental document.

DATES: Please provide written comments on the scope of issues to include in the environmental document by March 5, 2007.

ADDRESSES: Address comments, questions, and requests for further information to: Judy McClendon, Natural Resource Planner, Central Arkansas National Wildlife Refuge Complex, 26320 Highway 33 South, Augusta, Arkansas 72006; Telephone: 870/347–2074. Comments may be faxed to the complex at: 870/347–2908, or e-mailed to *Judy_McClendon@fws.gov*.

SUPPLEMENTARY INFORMATION: Public scoping meetings are planned for early 2007 and will be announced in the local media in advance of the meetings. Announcements will inform people of opportunities for written input throughout the planning process. All comments received become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act and other Service and Departmental policies and procedures.

By Federal law, all lands within the National Wildlife Refuge System will be managed in accordance with an approved comprehensive conservation plan. Plans guide a refuge's management decisions and identify long-term goals, objectives, and strategies for achieving the purposes for which the refuge was established. During the planning process many elements will be considered, including wildlife and habitat management, public use opportunities, and cultural resource protection. Public input during the planning process is essential. The plan for the Central Arkansas National Wildlife Refuge Complex will describe desired conditions for refuges within the complex and the long-term goals, objectives, and strategies for achieving those conditions.

The four national wildlife refuges that comprise the Central Arkansas National Wildlife Refuge Complex were all established primarily to provide habitat for migrating waterfowl and other birds, for use as inviolate sanctuary or for any other management purposes for migratory birds, for the conservation of the Nation's wetlands, to protect and restore bottomland hardwood resources, to protect endangered species, and to provide the public with compatible and appropriate wildlife-dependent recreational opportunities. The refuges are located in the bottomland hardwood habitat of the Mississippi River Alluvial Plain and contain large tracts of bottomland hardwood forest, unique wetlands, and habitat for wintering migratory waterfowl and other wildlife. In early 2005, the ivory-billed woodpecker, long thought to be extinct, was rediscovered on the Cache River National Wildlife Refuge.

Preliminary Issues, Concerns, and Opportunities

The following preliminary issues, concerns, and opportunities have been identified and will be addressed in the comprehensive conservation plan. Additional issues will be identified during public scoping.

Habitat Management and Restoration: What actions shall the Service take to sustain and restore priority species and habitats over the next 15 years?

Endangered Species: How will the Cache River National Wildlife Refuge manage its lands with the rediscovery of the ivory-billed woodpecker?

Public Use and Access: What type and level of appropriate and wildlife-dependent compatible recreation opportunities should be provided?

Invasive Species Control: How do invasive species affect functioning native systems, and what actions should be taken to reduce the incidence and spread of invasive species?

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

November 20, 2006.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. E6–22463 Filed 12–29–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Cross Creeks National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a Comprehensive Conservation Plan and Environmental Assessment for Cross Creeks National Wildlife Refuge in Stewart County, Tennessee.

SUMMARY: This notice advises the public that the Fish and Wildlife Service, Southeast Region, intends to gather information necessary to prepare a comprehensive conservation plan and environmental assessment pursuant to the National Environmental Policy Act of 1969 and its implementing regulations. The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, requires the Service to develop a comprehensive conservation plan for each national wildlife refuge. The purpose in developing a comprehensive conservation plan is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, plans identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

The purpose of this notice is to achieve the following:

(1) Advise other agencies and the public of our intentions, and

(2) Obtain suggestions and information on the scope of issues to include in the environmental document.

DATES: To ensure consideration, written comments must be received no later than February 20, 2007.

ADDRESSES: Address comments, questions, and requests for more information to Cross Creeks National Wildlife Refuge, 643 Wildlife Drive, Dover, Tennessee 37058; *Telephone:* 931/232–7477.

SUPPLEMENTARY INFORMATION: Open house style meeting(s) will be held throughout the scoping phase of the comprehensive conservation plan development process. Special mailings, newspaper articles, and other media announcements will be used to inform the public and state and local government agencies of the opportunities for input throughout the planning process. All comments received become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act.

Cross Creeks National Wildlife Refuge was established in 1962 as mitigation for the U.S. Army Corps of Engineers Lake Barkley Project. Refuge objectives are to: Provide habitat for migratory birds, especially waterfowl; provide habitat and protection for threatened and endangered species (e.g., bald eagles, gray bats, Indiana bats, and least terns); provide wildlife-dependent recreation for the public; and provide environmental education for students, faculty, and the private sector.

The 8,862-acre refuge occupies 12.5 river miles of the middle transition portion of the Cumberland River (Lake Barkley Reservoir) between Cheatham Dam in Tennessee and Barkley Dam in Kentucky.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: October 25, 2006.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. E6–22466 Filed 12–29–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Conservation Plan and Environmental Assessment for Santee National Wildlife Refuge in Clarendon County, South Carolina

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: The Fish and Wildlife Service, Southeast Region, intends to gather information necessary to prepare a comprehensive conservation plan and environmental assessment pursuant to the National Environmental Policy Act of 1969 and its implementing regulations.

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, requires the Service to develop a comprehensive conservation plan for each national wildlife refuge. The purpose in developing a comprehensive conservation plan is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, plans identify wildlife-dependent opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

The purpose of this notice is to achieve the following:

(1) Advise other agencies and the public of our intentions, and

(2) Obtain suggestions and information on the scope of issues to include in the environmental document.

DATES: Please provide written comments on the scope of issues to include in the environmental document by March 5, 2007.

ADDRESSES: Comments, questions, and requests for more information regarding the Santee National Wildlife Refuge planning process should be sent to: Van Fischer, Natural Resource Planner, South Carolina Lowcountry Refuge Complex, 5801 Highway 17 North, Awendaw, South Carolina 29429; Telephone: 843/928–3264; Fax: 843/928–3803; Electronic mail: *van_fischer@fws.gov.*

SUPPLEMENTARY INFORMATION: Special mailings, newspaper articles, and other media announcements will be used to inform the public and state and local government agencies of the opportunities for input throughout the planning process. Open-house style public meetings will be held during the scoping phase of the comprehensive conservation plan development process. During this process, many elements will be considered, including wildlife and habitat management, public recreational activities, and cultural resource protection. Public input into the planning process is essential. All comments received become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act and other Service and Departmental policies and procedures.

Santee National Wildlife Refuge was established on May 5, 1941, to alleviate the loss of natural waterfowl and wildlife habitat caused by the construction of hydro-electric projects on the Santee and Cooper Rivers. Stretching for 18 miles along the northern shore of Lake Marion, the refuge protects 15,095 acres within the upper coastal plain region of Clarendon County, South Carolina. Additional information concerning this refuge may be found at the Service's Internet site: *http://www.fws.gov/refuges.*

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: December 2, 2006.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. E6–22468 Filed 12–29–06; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–409 and 731–TA–909 (Review)]

Low Enriched Uranium From France

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing and antidumping duty orders on low enriched uranium from France.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing and antidumping duty orders on low enriched uranium from France would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is February 21, 2007. Comments on the adequacy of responses may be filed with the Commission by March 19, 2007. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: January 2, 2007.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On February 13, 2002, the Department of Commerce issued countervailing and antidumping duty orders on imports of low enriched uranium from France (67 FR 6689–6691 and 6680–6681). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Country* in these reviews is France.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission determined that there was one Domestic Like Product consisting of all low enriched uranium corresponding to Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission determined that there was a single Domestic Industry consisting of the sole domestic producer of low enriched uranium, USEC.

(5) The *Order Date* is the date that the countervailing and antidumping duty orders under review became effective. In these reviews, the Order Date is February 13, 2002.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list. Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 07–5–165, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is February 21, 2007. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is March 19, 2007. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules.

The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by § 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information. Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and e-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing and antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since the Order Date.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2006 (report quantity data in separative work units (''SWUs'') and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during

calendar year 2006 (report quantity data in SWUs and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2006 (report quantity data in SWUs and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

Issued: December 26, 2006.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–22423 Filed 12–29–06; 8:45 am]

BILLING CODE 7020–02–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Weeks of January 1, 8, 15, 22, 29, February 5, 2007.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of January 1, 2007

Thursday, January 4, 2007

12:55 p.m. Affirmation Session (Public Meeting) (Tentative)

a. Final Rule: Secure Transfer of Nuclear Material (RIN 3150–AH90) (Tentative)

b. Entergy Nuclear Operations, Inc. (Pilgrim Nuclear Power Station), Intervenor Pilgrim Watch's Appeal of LBP–06–23 (Ruling on Standing and Contentions) (Tentative)

Week of January 8, 2007—Tentative

Wednesday, January 10, 2007

9:30 a.m. Briefing on Browns Ferry Unit 1 Restart (Public Meeting) (Contact: Catherine Haney, 301 415–1453)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Thursday, January 11, 2007

1:25 p.m. Affirmation Session (Public Meeting) (Tentative)

a. Final Rulemaking to Revise 10 CFR 73.1, Design Basis Threat (DBT) Requirements (Tentative)

b. Entergy Nuclear Vermont Yankee, LLC, & Entergy Nuclear Operations, Inc. (Vermont Yankee Nuclear Power Station), LBP–06–20 (9/22/06): Entergy Nuclear Generation Company & Entergy Nuclear Operations, Inc. (Pilgrim Nuclear Power Station), LBP–06–23 (10/16/06) (Tentative)

1:30 p.m. Periodic Briefing on New Reactor Issues (Public Meeting) (Contact: Donna Williams, 301 415–1322)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of January 15, 2007—Tentative

There are no meetings scheduled for the Week of January 15, 2007.

Week of January 22, 2007—Tentative

Tuesday, January 23, 2007

1:30 p.m. Joint Meeting with Federal Energy Regulatory Commission on Grid Reliability (Public Meeting) (Contact: Mike Mayfield, 301 415–5621)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of January 29, 2007—Tentative

Wednesday, January 31, 2007

9:30 a.m. Discussion of Security Issues (Closed—Ex. 1 & 3) To be held at Department of Homeland Security Headquarters, Washington, DC.

Thursday, February 1, 2007

9:30 a.m. Discussion of Management Issues (Closed—Ex. 2)

1:30 p.m. Briefing on Strategic Workforce Planning and Human Capital Initiatives (Public Meeting) (Contact: Mary Ellen Beach, 301 415–6803)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of February 5, 2007—Tentative

There are no meetings scheduled for the Week of February 5, 2007.

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*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292.

Contact person for more information: Michelle Schroll, (301) 415–1662.

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator, Deborah Chan, at 301–415–7041, TDD: 301–415–2100, or by e-mail at *DLC@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

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This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov*.

Dated: December 26, 2006.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 06–9965 Filed 12–28–06; 9:43 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from December 8, 2006 to December 21, 2006. The last biweekly notice was published on December 19, 2006 (71 FR 75987).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazard Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov;* or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: September 28, 2006.

Description of amendment request: The proposed amendment would modify technical specification (TS) requirements of TS 3.8.3, ''Diesel Fuel Oil,'' to include a new Condition A with associated Required Action and Completion Time. The proposed Condition A allows the main fuel oil storage tank to be inoperable for up to 14 days for the purpose of performing inspection, cleaning, or repair activities.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not alter the assumption of the accident analyses or the Technical Specification Bases. The inclusion of provisions to permit internal inspection of the main fuel oil storage tank during plant operation does not impact the availability of the EDGs to perform their intended safety function. Furthermore, while the main fuel oil storage tank is out of service, the availability of on-site and off-site fuel oil sources ensures that an adequate supply of fuel oil remains available. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical change to the design of the Diesel Fuel Oil System, nor does it alter the assumptions of the accident analyses. The inclusion of provisions to permit internal inspection and cleaning of the main fuel oil storage tank during plant operation does not introduce any new failure modes. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change alters the method of operation of the Diesel Fuel Oil System. However, the availability of the EDGs to perform their intended safety function is not impacted and the assumptions of the accident analyses are not altered. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David T. Conley, Associate General Counsel II—Legal Department, Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Acting Branch Chief: D. Pickett.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: November 27, 2006.

Description of amendment request: The proposed amendment would modify the Technical Specifications (TSs) by relocating references to specific American Society for Testing and Materials (ASTM) standards for fuel oil testing to licensee-controlled documents and adding alternate criteria to the ''clear and bright'' acceptance test for new fuel oil.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration by a reference to a generic analysis published in the **Federal Register** on February 22, 2006 (71 FR 9179), which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No.

The proposed changes relocate the specific ASTM standard references from the Administrative Controls Section of TS to a licensee-controlled document. Requirements to perform testing in accordance with applicable ASTM standards are retained in the TS as are requirements to perform surveillances of both new and stored diesel fuel oil. Future changes to the licensee-controlled document will be evaluated pursuant to the requirements of 10 CFR 50.59, ''Changes, tests and experiments,'' to ensure that such changes do not result in more than a minimal increase in the probability or consequences of an accident previously evaluated. In addition, the ''clear and bright'' test used to establish the acceptability of new fuel oil for use prior to addition to storage tanks has been expanded to recognize more rigorous testing of water and sediment content. Relocating the specific ASTM standard references from the TS to a licensee-controlled document and allowing a water and sediment content test to be performed to establish the acceptability of new fuel oil will not affect nor degrade the ability of the emergency diesel generators (DGs) to perform their specified safety function. Fuel oil quality will continue to meet ASTM requirements.

The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained. The proposed changes do not adversely affect the ability of structures, systems, and components (SSCs) to perform their intended safety function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of any accident previously evaluated. Further, the proposed changes do not increase the types and amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures.

Therefore, the changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes relocate the specific ASTM standard references from the Administrative Controls Section of TS to a licensee-controlled document. In addition, the ''clear and bright'' test used to establish the acceptability of new fuel oil for use prior to addition to storage tanks has been expanded to allow a water and sediment content test to be performed to establish the acceptability of new fuel oil. The changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. The requirements retained in the TS continue to require testing of the diesel fuel oil to ensure the proper functioning of the DGs.

Therefore, the changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes relocate the specific ASTM standard references from the Administrative Controls Section of TS to a licensee-controlled document. Instituting the proposed changes will continue to ensure the use of applicable ASTM standards to evaluate the quality of both new and stored fuel oil designated for use in the emergency DGs. Changes to the licensee-controlled document are performed in accordance with the provisions of 10 CFR 50.59. This approach provides an effective level of regulatory control and ensures that diesel fuel oil testing is conducted such that there is no significant reduction in a margin of safety.

The ''clear and bright'' test used to establish the acceptability of new fuel oil for use prior to addition to storage tanks has been expanded to allow a water and sediment content test to be performed to establish the acceptability of new fuel oil. The margin of safety provided by the DGs is unaffected by the proposed changes since there continue to be TS requirements to ensure fuel oil is of the appropriate quality for emergency DG use. The proposed changes provide the flexibility needed to improve fuel oil sampling and analysis methodologies while maintaining sufficient controls to preserve the current margins of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David G. Pettinari, Legal Department, 688 WCB, Detroit Edison Company, 2000 2nd Avenue, Detroit, Michigan 48226–1279.

NRC Branch Chief: L. Raghavan.

Duke Power Company LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: April 11, 2006.

Description of amendment request: The proposed amendments would (Item 1) revise the Technical Specifications (TSs) and delete the license conditions related to steam generator (SG) tube integrity and (Item 2) revise an organizational description in TS 5.2.1 that is solely administrative in nature and unrelated to the SG tube integrity TSs.

The changes related to SG tube integrity are consistent with the consolidated line-item improvement process (CLIIP), Nuclear Regulatory Commission-approved Revision 4 to Technical Specification Task Force (TSTF) Standard TS Change Traveler, TSTF–449, ''Steam Generator Tube Integrity.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

(Item 1) SG Tube Integrity

The proposed change requires a SG Program that includes performance criteria that will provide reasonable assurance that the SG tubing will retain integrity over the full range of operating conditions (including startup, operation in the power range, hot standby, cooldown and all anticipated transients included in the design specification). The SG performance criteria are based on tube structural integrity, accident induced leakage, and operational LEAKAGE.

A (steam generator tube rupture) SGTR event is one of the design basis accidents that are analyzed as part of a plant's licensing basis. In the analysis of a SGTR event, a bounding primary to secondary LEAKAGE rate equal to the operational LEAKAGE rate limits in the licensing basis plus the LEAKAGE rate associated with a double-ended rupture of a single tube is assumed.

For other design basis accidents such as MSLB, rod ejection, and reactor coolant pump locked rotor the tubes are assumed to retain their structural integrity (i.e., they are assumed not to rupture). These analyses typically assume that primary to secondary LEAKAGE for all SGs is 1 gallon per minute or increases to 1 gallon per minute as a result of accident induced stresses. The accident induced leakage criterion introduced by the proposed changes accounts for tubes that may leak during design basis accidents. The accident induced leakage criterion limits this leakage to no more than the value assumed in the accident analysis.

The SG performance criteria proposed change to the TS identify the standards against which tube integrity is to be measured. Meeting the performance criteria provides reasonable assurance that the SG tubing will remain capable of fulfilling its specific safety function of maintaining reactor coolant pressure boundary integrity throughout each operating cycle and in the unlikely event of a design basis accident. The performance criteria are only a part of the SG Program required by the proposed change to the TS. The program, defined by NEI 97–06, Steam Generator Program Guidelines, includes a framework that incorporates a balance of prevention, inspection, evaluation, repair, and leakage monitoring. The proposed changes do not, therefore, significantly increase the probability of an accident previously evaluated.

The consequences of design basis accidents are, in part, functions of the DOSE EQUIVALENT 1–131 in the primary coolant and the primary to secondary LEAKAGE rates resulting from an accident. Therefore, limits are included in the plant technical specifications for operational leakage and for DOSE EQUIVALENT 1–131 in primary coolant to ensure the plant is operated within its analyzed condition. The typical analysis of the limiting design basis accident assumes that primary to secondary leak rate after the accident is 0.27 gallons per minute with no more than 135 gallons per day in any one SG, and that the reactor coolant activity levels of DOSE EQUIVALENT 1–131 are at the TS values before the accident.

The proposed change does not affect the design of the SGs, their method of operation, or primary coolant chemistry controls. The proposed approach updates the current TSs and enhances the requirements for SG inspections. The proposed change does not adversely impact any other previously evaluated design basis accident and is an improvement over the current TSs.

Therefore, the proposed change does not affect the consequences of a SGTR accident and the probability of such an accident is reduced. In addition, the proposed changes do not affect the consequences of an MSLB (main steamline break), rod ejection, or a reactor coolant pump locked rotor event, or other previously evaluated accident.

(Item 2) Organization Description Revision in TS 5.2.1

The proposed change revises an organizational description in TS 5.2.1 to conform to an application for consent to the indirect transfer of control of the renewed facility operating licenses. The proposed change does not affect the operation of any equipment, and is solely administrative in nature; therefore, the proposed change has no impact on any accident probabilities or consequences.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

(Item 1) SG Tube Integrity

The proposed performance based requirements are an improvement over the requirements imposed by the current technical specifications. Implementation of the proposed SG Program will not introduce any adverse changes to the plant design basis or postulated accidents resulting from potential tube degradation. The result of the implementation of the SG Program will be an enhancement of SG tube performance. Primary to secondary LEAKAGE that may be experienced during all plant conditions will be monitored to ensure it remains within current accident analysis assumptions.

The proposed change does not affect the design of the SGs, their method of operation, or primary or secondary coolant chemistry controls. In addition, the proposed change does not impact any other plant system or component. The change enhances SG inspection requirements.

Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

(Item 2) Organization Description Revision in TS 5.2.1

There are no new accident causal mechanisms created as a result of this proposed change. No changes are being made to the plant that will introduce any new accident causal mechanisms. This change is solely administrative in nature and does not impact any plant systems that are accident initiators; therefore, no new accident types are being created.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

(Item 1) SG Tube Integrity

The SG tubes in pressurized water reactors are an integral part of the reactor coolant pressure boundary and, as such, are relied upon to maintain the primary system's pressure and inventory. As part of the reactor coolant pressure boundary, the SG tubes are unique in that they are also relied upon as a heat transfer surface between the primary and secondary systems such that residual heat can be removed from the primary system. In addition, the SG tubes isolate the radioactive fission products in the primary coolant from the secondary system. In summary, the safety function of an SG is maintained by ensuring the integrity of its tubes.

Steam generator tube integrity is a function of the design, environment, and the physical condition of the tube. The proposed change does not affect tube design or operating environment. The proposed change is expected to result in an improvement in the tube integrity by implementing the SG Program to manage SG tube inspection, assessment, repair, and plugging. The requirements established by the SG Program are consistent with those in the applicable design codes and standards

and are an improvement over the requirements in the current TSs.

For the above reasons, the margin of safety is not changed and overall plant safety will be enhanced by the proposed change to the TS.

(Item 2) Organization Description Revision in TS 5.2.1

Margin of safety is related to confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. This proposed change is solely administrative in nature and does not affect the performance of the barriers. Consequently, no safety margins will be impacted.

Attorney for licensee: Lisa F. Vaughn, Associate General Counsel and Managing Attorney, Duke Energy Carolinas, LLC, 526 South Church Street EC07H, Charlotte, NC 28202.

NRC Branch Chief: Evangelos C. Marinos.

Duke Power Company LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: November 16, 2006.

Description of amendment request: The proposed amendments would authorize revision to revise the Updated Final Safety Analysis Report (UFSAR) to describe the flood protection measures for the auxiliary building.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. This License Amendment Request (LAR) proposes the use of a realistic seismic evaluation of the Auxiliary Building sprinkler system (high pressure service water) piping which demonstrates that these non-Category I (non-seismic) self-actuating sprinkler systems will not fail during a Maximum Hypothetical Earthquake (MHE) and clarifies Duke's commitment toward Auxiliary Building flood protection measures in the Updated Final Safety Analysis Report (UFSAR). The proposed change does not affect any Chapter 15 accident analyses. Operation in accordance with the amendment authorizing this change would not involve any accident initiation sequences or change the consequences of any accident analyzed.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. This LAR proposes the use of a realistic seismic evaluation of the Auxiliary Building sprinkler system (high pressure service water) piping which demonstrate that these non-Category I (non-seismic) self-actuating sprinkler systems will not fail during a MHE and clarifies Duke's commitment toward Auxiliary Building flood protection measures in the UFSAR. Operation in accordance with this proposed amendment will not result in a change in the parameters governing plant operation and will not generate any new accident initiators. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Does the proposed change involve a significant reduction in a margin of safety?

No. This LAR proposes the use of a realistic seismic evaluation of the Auxiliary Building sprinkler system (high pressure service water) piping, which demonstrates that these non-Category I (non-seismic) self-actuating sprinkler systems will not fail during a MHE and clarifies Duke's commitment toward Auxiliary Building flood protection measures in the UFSAR. Operation in accordance with this proposed amendment will not result in a change in the parameters governing plant operation and will not affect any Chapter 15 accident analyses. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Associate General Counsel and Managing Attorney, Duke Energy Carolinas, LLC, 526 South Church Street, Charlotte, NC 28202.

NRC Branch Chief: Evangelos C. Marinos.

Duke Power Company LLC, et al., Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: April 11, 2006.

Description of amendment request: The proposed amendment would add Technical Specification (TS) Limiting Condition for Operation (LCO) 3.0.8 to allow a delay time for entering a supported system TS when the inoperability is due solely to an inoperable snubber. The proposed changes are consistent with approval of TS Task Force (TSTF) change TSTF–372, Revision 4, ''Addition of LCO 3.0.8, Inoperability of Snubbers.''

The NRC staff issued a notice of availability of a model safety evaluation and model no significant hazards consideration (NSHC) determination for referencing in license amendment applications in the **Federal Register** on November 24, 2004 (69 FR 68412).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change allows a delay time for entering a supported system technical specification (TS) when the inoperability is due solely to an inoperable snubber if risk is assessed and managed. The postulated seismic event requiring snubbers is a low-probability occurrence and the overall TS system safety function would still be available for the vast majority of anticipated challenges. Therefore, the probability of an accident previously evaluated is not significantly increased, if at all. The consequences of an accident while relying on allowance provided by proposed LCO 3.0.8 are no different than the consequences of an accident while relying on the TS required actions in effect without the allowance provided by proposed LCO 3.0.8. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). Allowing delay times for entering supported system TS when inoperability is due solely to inoperable snubbers, if risk is assessed and managed, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change allows a delay time for entering a supported system TS when the inoperability is due solely to an inoperable snubber, if risk is assessed and managed. The

postulated seismic event requiring snubbers is a low-probability occurrence and the overall TS system safety function would still be available for the vast majority of anticipated challenges. The risk impact of the proposed TS changes was assessed following the three-tiered approach recommended in Regulatory Guide 1.177. A bounding risk assessment was performed to justify the proposed TS changes. This application of LCO 3.0.8 is predicated upon the licensee's performance of a risk assessment and the management of plant risk. The net change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lisa F. Vaughn, Associate General Counsel and Managing Attorney, Duke Energy Carolinas, LLC, 526 South Church Street, EC07H, Charlotte, NC 28202.

NRC Branch Chief: Evangelos C. Marinos.

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of amendment request: September 26, 2006.

Description of amendment request: The proposed amendment would allow up to eight AREVA NP Inc. Modified Advanced Mark-BW(A) fuel assemblies containing M5 alloy to be placed in nonlimitng Braidwood Station, Unit No. 1 core regions for evaluation during Cycle 14, 15, and 16. The proposed amendment would also remove all references to Joseph Oat spent fuel storage racks that have been physically removed from the spent fuel pool.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed TS [technical specification] change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The AREVA Advanced Mark-BW(A) fuel is similar in design to the Westinghouse fuel that will be co-resident in the core. The Advanced Mark-BW(A) fuel assemblies are also similar in design to the Advanced Mark-BW assemblies using M5 alloy material for the cladding, structural tubing, and grids generically approved for use in Westinghouse 3- and 4-loop designed pressurized water reactors with 17 × 17 fuel rod arrays. The AREVA Advanced Mark-BW(A) fuel assemblies will be placed in nonlimiting regions (i.e., locations) of the core. The Cycle 14, 15, and 16 reload designs will meet all applicable design criteria. EGC [Exelon Generation Company, LLC] will use the NRC-approved standard reload design models and methods to demonstrate that all applicable design criteria will be met. Evaluations will be performed as part of the cycle specific reload safety analysis for the operation of the AREVA Advanced Mark-BW(A) fuel to confirm that the acceptance criteria of the existing safety analyses continue to be met. Operation of the AREVA Advanced Mark-BW(A) fuel will not significantly increase the predicted radiological consequences of accidents postulated in the Updated Final Safety Analysis Report.

The proposed change regarding removal of all references in TS to the Joseph Oat spent fuel racks is administrative and deletes unnecessary wording relating to equipment that is physically removed from the Braidwood Station spent fuel pool and therefore does not alter the design, configuration, operation, or function of any plant system, structure or component. As a result, the administrative change does not affect the outcome of any previously evaluated accidents.

Based on the above discussion, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The AREVA Advanced Mark-BW(A) fuel is similar in design to the Westinghouse fuel that will be co-resident in the core. The Advanced Mark-BW(A) fuel assemblies are also similar in design to the Advanced Mark-BW assemblies using M5 alloy material for the cladding, structural tubing, and grids generically approved for use in Westinghouse 3- and 4-loop designed pressurized water reactors with 17 x 17 fuel rod arrays. The Braidwood Station, Unit [No.] 1 cores in which the fuel operates will be designed to meet all applicable design criteria and ensure that all pertinent licensing basis criteria are met. Demonstrated adherence to these standards and criteria precludes new challenges to components and systems that could introduce a new type of accident. The reload core designs for the cycles in which the AREVA Advanced Mark-BW(A) fuel will operate will demonstrate that the use of up to eight AREVA Advanced Mark-BW(A) fuel assemblies in nonlimiting core regions (i.e., locations) is acceptable. The relevant design and performance criteria will continue to be met and no new single failure mechanisms will be created. The use of AREVA Advanced Mark-BW(A) fuel does not involve any alteration to plant equipment or procedures that would introduce any new or unique operational modes or accident precursors.

The proposed change regarding removal of all references in TS to Joseph Oat spent fuel racks is administrative and deletes unnecessary wording relating to equipment that is physically removed from the Braidwood Station spent fuel pool and therefore does not alter the design, configuration, operation, or function of an plant system, structure or component. As a result, the administrative change does not create any new or different kind of accident.

Based on this evaluation, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed TS change does not involve a significant reduction in a margin of safety.

Operation of Braidwood Station, Unit [No.] 1 with up to eight AREVA Advanced Mark-BW(A) fuel assemblies in nonlimiting core regions (i.e., locations) does not change the performance requirements on any system or component such that any design criteria will be exceeded. The normal limits on core operation defined in the Braidwood Station TS will remain applicable for the use of up to eight AREVA Advanced Mark-BW(A) fuel assemblies during Cycles 14, 15, and 16. The reload core designs for the cycles in which the AREVA Advanced Mark-BW(A) fuel will operate will specifically evaluate any pertinent differences, including both mechanical design differences and the past irradiation history, between the AREVA Advanced Mark-BW(A) fuel product, and the Westinghouse fuel product that will be co-resident in the core. The use of up to eight AREVA Advanced Mark-BW(A) fuel assemblies will be specifically evaluated during the reload design process using reload design models and methods as approved by the NRC.

The proposed change regarding removal of all references in TS to Joseph Oat spent fuel racks is administrative and deletes unnecessary wording relating to equipment that is physically removed from the Braidwood Station spent fuel pool and therefore does not alter the design, configuration, operation, or function of an plant system, structure or component. As a result, the administrative change does not affect the ability of any operable structure, system, or component to perform its designated safety function.

Based on this evaluation, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Bradley J. Fewell, Assistant General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Kennett Square, PA 19348.

NRC Branch Chief: Michael L. Marshall, Jr.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: October 19, 2006.

Description of amendment request: The proposed amendments would

revise Technical Specification 4.6.2.1.d to allow the frequency of air or smoke flow testing of the containment spray nozzles to be reduced from 10 years to an activity-related frequency following maintenance that could cause a blockage.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed change revises the surveillance frequency from once per 10 years to following activities that could result in nozzle blockage. The containment spray system nozzles are passive components and are not considered as an initiator of any analyzed event. The proposed change will not impact the ability of the containment spray system to mitigate the consequences of an accident. Industry experience indicates that containment spray systems of similar design are highly reliable and not susceptible to plugging due to the open design of the nozzles, the location of the nozzles high in the containment dome, and the corrosion resistant materials used for construction of the system. The alternative frequency of this surveillance has no impact on the probability of failure of associated active systems. Therefore, there is no significant increase in the probability or consequences of previously evaluated accidents due to the extended surveillance frequency.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendment provides an alternative frequency for performance of the spray nozzle surveillance test. The containment spray nozzles are used for accident mitigation only. Potential unidentified blockage of the containment spray nozzles will not result in the initiation of an accident. The change does not involve a physical alteration of the plant nor does it result in an operational condition different from that which has already been considered in the accident analyses. Therefore, the change does not create the possibility of a new or different kind of accident or malfunction from any accident previously evaluated.

3. Does this change involve a significant reduction in margin of safety?

No. The alternative frequency of spray nozzle testing has no significant impact on the consequences of any analyzed accident and does not significantly change the failure probability of any equipment that provides protection for the health and safety of the public. The containment spray system will continue to be capable of maintaining containment temperature and pressure below design values. Therefore, there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Branch Chief: Douglas V. Pickett (Acting).

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: October 19, 2006.

Description of amendment request: The proposed amendments would revise various Technical Specifications (TSs) to address requirements that should have been changed as part of previously approved amendments. These amendments included TS changes regarding relocation of administrative requirements to licensee controlled programs such as the Topical Quality Assurance Report (TQAR), handling of recently irradiated fuel in accordance with TS Task Force change traveler TSTF–51, and Auxiliary Feedwater Actuation System (AFAS) trip and bypass requirements. The proposed amendments also correct some typographical errors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

These proposed license amendments require no plant hardware or operational modifications. The proposed changes either correct various administrative errors or incorporate changes that have been justified by previously approved license amendments and should have been made as part of those submittals. Therefore, operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

No modifications to either plant hardware or operational procedures are required to support these proposed license amendments; hence, no new failure modes are created. The proposed changes either correct various administrative errors or incorporate changes that have been justified by previously approved license amendments and should have been made as part of those submittals. Therefore, operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The TS corrections proposed by these license amendments are administrative in nature in that they either correct typographical errors (e.g., letter dates and transient limits) or are justified by previous license amendments (i.e., relocation of administrative programs to the TQAR, the implementation of TSTF–51 for recently irradiated fuel, and correct inconsistencies introduced by AFAS trip and bypass requirements). Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Branch Chief: Douglas V. Pickett (Acting).

Indiana Michigan Power Company (I&M), Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit 1 and 2, Berrien County, Michigan

Date of amendment request: November 3, 2006.

Description of amendment request: The proposed amendment would modify the Technical Specifications (TS) to reflect a proposed plant modification that will replace the reactor coolant system resistance temperature detectors (RTDs) and bypass piping with fast response thermowell detectors mounted directly in the primary loop piping. The specific TS requirements affected include the notes in Unit 2 TS surveillance requirement for channel calibration of the overtemperature differential temperature (OTΔT) and overpower differential temperature (OPΔT) reactor trip system functions. The proposed change also affects the Unit 1 and Unit 2 TS allowable values for OTΔT and OPΔT reactor trip systems functions.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

Response: No.

The resistance temperature detectors (RTD) bypass system is the hardware associated with Reactor Coolant System instrumentation having control, indication, and protection functions. The RTD bypass system is not considered a precursor to any previously analyzed accident. The system is relied upon to mitigate the consequences of some accidents. The new system replacing the RTD bypass system will perform the same control, indication, and protection functions, and, similarly, will not be considered a precursor to any accident. The capability of the system to mitigate the consequences of the previously analyzed accidents will not be significantly affected. Therefore, replacement of the existing RTD bypass system with the new system will not increase the probability of occurrence of an accident, and will not increase consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The replacement of the existing RTD bypass with the new system would not create new failure modes, and the replacement system is not an initiator of any new or different kind of accident. The proposed deletion of the note in Technical Specification (TS) Surveillance Requirement 3.3.1.15, and proposed changes to Allowable Values in TS Table 3.3.1–1 do not affect the interaction of the replacement system with any system whose failure or malfunction can initiate an accident. Therefore, the proposed change does not create the possibility of a new [or] different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Margins of safety are established in the design of components, the configuration of components to meet certain performance parameters, and in the models and associated assumptions used to analyze the system's performance. The replacement system will continue to perform the same temperature detection function to the same level of reliability as defined in the Donald C. Cook Nuclear Plant Updated Final Safety Analysis Report. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The Nuclear Regulatory Commission (NRC) staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Kimberly Harshaw, Esquire, One Cook Place, Bridgman, MI 49106.

NRC Branch Chief: L. Raghavan.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: December 14, 2006.

Description of amendment requests: The proposed amendments would delete Section 2.G of the Diablo Canyon Power Plant Facility Operating Licenses, which requires reporting of violations of the requirements in Sections 2.C, 2.E, and 2.F of the Facility Operating License.

The NRC staff issued a notice of opportunity to comment in the **Federal Register** on August 29, 2005 (70 FR 51098), on possible amendments to eliminate the license condition involving reporting of violations of other requirements (typically in License Condition 2.C) in the operating license, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the model for referencing in license amendment applications in the **Federal Register** on November 4, 2005 (70 FR 67202). The licensee affirmed the applicability of the NSHC determination in its application dated December 14, 2006.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change involves the deletion of a reporting requirement. The change does not affect plant equipment or operating practices and therefore does not significantly increase the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change is administrative in that it deletes a reporting requirement. The change does not add new plant equipment, change existing plant equipment, or affect the operating practices of the facility. Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change deletes a reporting requirement. The change does not affect plant equipment or operating practices and therefore does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Antonio Fernandez, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Branch Chief: David Terao.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: December 15, 2006.

Description of amendment request: The amendment request would revise the Technical Specifications (TSs) to adopt NRC-approved Revision 4 to Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler TSTF–372, ''Addition of LCO [Limiting Condition for Operation] 3.0.8, Inoperability of Snubbers.'' The amendment would add (1) a new LCO 3.0.8 addressing when one or more required snubbers are unable to perform their associated support function(s) (i.e., the snubber is inoperable) and (2) a reference to LCO 3.0.8 in LCO 3.0.1 on when LCOs shall be met.

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on November 24, 2004 (69 FR 68412), on possible license amendments adopting TSTF–372 using the NRC's consolidated line item improvement process (CLIIP) for amending licensee's TSs, which included a model safety evaluation (SE) and model no significant hazards consideration (NSHC) determination. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on May 4, 2005 (70 FR 23252), which included the resolution of public comments on the model SE. The May 4, 2005, notice of availability referenced the November 24, 2004, notice. The licensee has affirmed the applicability of the following NSHC determination in its application.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change allows a delay time for entering a supported system technical specification (TS) when the inoperability is due solely to an inoperable snubber if risk is assessed and managed. The postulated seismic event requiring snubbers is a low-probability occurrence and the overall TS system safety function would still be available for the vast majority of anticipated challenges. Therefore, the probability of an accident previously evaluated is not significantly increased, if at all. The consequences of an accident while relying on allowance provided by proposed LCO 3.0.8 are no different than the consequences of an accident while relying on the TS required actions in effect without the allowance provided by proposed LCO 3.0.8. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). Allowing delay times for entering [a] supported system TS when inoperability is due solely to inoperable snubbers, if risk is assessed and managed, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety

The proposed change allows a delay time for entering a supported system TS when the inoperability is due solely to an inoperable snubber, if risk is assessed and managed. The postulated seismic event requiring snubbers is a low-probability occurrence and the overall TS system safety function would still be available for the vast majority of anticipated challenges. The risk impact of the proposed TS changes was assessed following the three-tiered approach recommended in [NRC] RG [Regulatory Guide] 1.177. A bounding risk assessment was performed to justify the proposed TS changes. This application of LCO 3.0.8 is predicated upon the licensee's performance of a risk assessment and the management of plant risk[, which is required by the proposed LCO 3.0.8]. The net change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037.

NRC Branch Chief: David Terao.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action, see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2 (HBRSEP2), Darlington County, South Carolina

Date of application for amendment: April 11, 2006, as supplemented by letter dated November 9, 2006.

Brief description of amendment: The amendment modifies Technical Specification (TS) 5.6.5, ''Core Operating Limits Report (COLR),'' to add a U.S. Nuclear Regulatory Commission-approved topical report to the listing of analytical methods in TS 5.6.5.b. This change will allow for the use of the S–RELAP5 thermal-hydraulic analysis code for the non-loss-of-coolant accident analyses at HBRSEP2.

Date of issuance: November 29, 2006.

Effective date: Effective as of the date of its issuance and shall be implemented within 60 days.

Amendment No. 211.

Renewed Facility Operating License No. DPR–23. Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 29, 2006 (71 FR 51224).

The supplemental letter dated November 9, 2006, provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the scope of the initial application.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 29, 2006.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket Nos. 50–247 and 50–286, Indian Point Nuclear Generating Unit Nos. 2 and 3 (IP2 and IP3), Westchester County, New York

Date of application for amendment: December 27, 2005, as supplemented by letter dated August 22, 2006.

Brief description of amendment: The amendment changes consist of the following changes to the plant Technical Specifications (TSs):

- Adoption of Technical Specification Task Force (TSTF)–258, Revision 4; regarding changes to TS Section 5.0, Administrative Controls.
- Adoption of TSTF–308, Revision 1; regarding the determination of cumulative and projected dose

contributions in the Radioactive Effluents Control Program (RECP).

• Revision of the IP2 definition for dose equivalent iodine-131 based on NUREG–1431, Revision 3.

• Revision of the IP2 RECP requirements based on NUREG–1431, Revision 3.

• Revision of the IP3 Explosive Gas and Storage Tank Radioactivity Monitoring Program requirements based on NUREG–1431.

Date of issuance: December 13, 2006.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: February 14, 2006.

Brief description of amendment: The amendment eliminated the requirement to verify containment isolation valves that are maintained locked, sealed, or otherwise secured closed from the monthly position verification. A new surveillance requirement, (SR) 4.6.1.1.d, was also added to replace the existing note and reflects the SR for similar devices located inside containment. In addition, a new note was included to allow verification by use of administrative means of the valves and blind flanges that are located in high-radiation areas. In this regard, the amendment adopts TS Task Force (TSTF) Improved Standard TS Change Traveler No. 45 (TSTF–45–A), ''Exempt Verification of Containment Isolation Valves that are Not Locked, Sealed, or Otherwise Secured.''

Date of issuance: December 18, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 269.

Renewed Facility Operating License No. NPF–6: Amendment revised the Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** April 11, 2006 (71 FR 18373).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 18, 2006.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendment: January 12, 2006.

Brief description of amendment: The amendments revised Technical Specification 3.6.6, ''Containment Spray and Cooling Systems,'' Surveillance Requirement 3.6.6.3, governing containment cooling train cooling water flow rate, from '' >2660 gallons per minute (gpm) to each train'' to '' >2660 gpm to each cooler,'' to accurately reflect the plant design.

Date of issuance: December 6, 2006.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 149, 149, 143 and 143.

Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77: The amendments revised the Technical Specifications and License.

Date of initial notice in ***Federal Register:*** April 25, 2006 (71 FR 23954)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 6, 2006.

No significant hazards consideration comments received: No.

Amendment No.: 250 and 232

Facility Operating License Nos. DPR–26 and DPR–64: The amendment revised the License and the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 14, 2006 (71 FR 7807).

The letter dated August 22, 2006, supplement provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 13, 2006.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Miami-Dade County, Florida

Date of amendment request: June 21, 2006, as supplemented December 12, 2006.

Brief description of amendments: The amendments revised Technical Specification (TS) 3.7.3, ''Intake Cooling Water System,'' Action a, to increase the allowed outage time for one inoperable intake cooling water pump from 7 days to 14 days.

Date of issuance: December 12, 2006.

Effective date: December 12, 2006.

Amendment Nos.: 232 and 227.

Renewed Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the TSs.

Date of initial notice in ***Federal Register:*** September 12, 2006 (71 FR 53717). The December 12, 2006, Supplement did not affect the original proposed no significant hazards determination, or expand the scope of the request as noticed in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 12, 2006.

No significant hazards consideration comments received: No.

FPL Energy Duane Arnold, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: April 28, 2006.

Brief description of amendment: The amendment modifies the Technical Specification (TS) requirements for inoperable snubbers by adding Limiting Condition for Operation 3.0.8. This change is based on the NRC-approved Technical Specification Task Force (TSTF) standard TS change TSTF–372, Revision 4. A notice of availability for this TS improvement using the consolidated line item improvement process was published in the **Federal Register** on May 4, 2005 (70 FR 23252).

Date of issuance: December 14, 2006.

Effective date: As of the date of issuance and shall be implemented within 180 days.

Amendment No.: 263.

Facility Operating License No. DPR–49: The amendment revises the TSs.

Date of initial notice in ***Federal Register:*** (71 FR 43534) August 1, 2006.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 14, 2006.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2 (NMP2), Oswego County, New York

Date of application for amendment: May 11, 2006.

Brief description of amendment: The amendment revised NMP2 Technical

Specification (TS) 3.1.7, ''Standby Liquid Control (SLC) System,'' (SLCS) by increasing the minimum required NMP2 SLCS pump test discharge pressure specified in TS Surveillance Requirement 3.1.7.7 from 1235 psig to 1320 psig.

Date of issuance: December 14, 2006.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 117.

Facility Operating License No. NPF–69: Amendment revised the License and Technical Specifications.

Date of initial notice in ***Federal Register:*** September 26, 2006 (71 FR 56192).

The staff's related evaluation of the amendment is contained in a Safety Evaluation dated December 14, 2006.

No significant hazards consideration comments received: No.

Nuclear Management Company, Docket No. 50–263, Monticello Nuclear Generating Plant (MNGP), Wright County, Minnesota

Date of application for amendment: September 15, 2005, as supplemented on April 13, August 21, and August 22, 2006.

Brief description of amendment: The amendment revised the MNGP licensing basis by implementing the full-scope alternative source term methodology, resulting in revision of portions of the Technical Specifications to reflect this licensing basis change.

Date of issuance: December 7, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No: 148.

Facility Operating License No. DPR–22: Amendment revised the Facility Operating License and Technical Specifications.

The supplemental letters contained clarifying information and did not change the initial no significant hazards consideration determination, and did not expand the scope of the original **Federal Register** notice.

Date of initial notice in ***Federal Register:*** February 14, 2006 (71 FR 7808).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 7, 2006.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket No. 50–323, Diablo Canyon Nuclear Power Plant, Unit No. 2, San Luis Obispo County, California

Date of application for amendment: January 13, 2006, as supplemented by letter dated September 29, 2006.

Brief description of amendment: The amendment revised TS 5.6.5, ''Core Operating Limits Report (COLR),'' by adding Westinghouse Topical Report WCAP–16009–P–A, ''Realistic Large-Break LOCA [Loss-of-Coolant Accident] Evaluation Methodology Using the Automated Statistical Treatment of Uncertainty Method (ASTRUM),'' dated January 2005, as an approved analytical method for determining the core operating limits for Diablo Canyon Power Plant, Unit No. 2.

Date of issuance: December 20, 2006.

Effective date: As of its date of issuance, and shall be implemented within 90 days of issuance.

Amendment No.: 192.

Facility Operating License No. DPR–82: The amendment revised the Facility Operating License and the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 28, 2006 (71 FR 10076).

The September 29, 2006, supplemental letter provided additional information that clarified the application, did not expand the scope of the application as originally noticed and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 20, 2006.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: March 29, 2006, as supplemented July 6, 2006.

Brief description of amendments: The amendments revised the Technical Specifications for containment tendon surveillance to provide consistency with the requirements of the regulations.

Date of issuance: December 12, 2006.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 147, 127.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the licenses and the technical specifications.

Date of initial notice in ***Federal Register:*** May 9, 2006 (71 FR 27004). The supplement dated July 6, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 12, 2006.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendment: December 15, 2005, as supplemented by letters dated June 12 and September 8, 2006 (TS–05–10).

Brief description of amendment: The amendment revises the existing steam generator tube surveillance program and was modeled after the U.S. Nuclear Regulatory Commission's approved Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–449, ''Steam Generator Tube Integrity,'' Revision 4. TSTF–449 is part of the consolidated line item improvement process.

Date of issuance: November 3, 2006.

Effective date: As of the date of issuance and shall be implemented prior to entering Mode 4 during startup from the Unit 1 Cycle 7 refueling outage.

Amendment No.: 65.

Facility Operating License No. NPF–90: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 28, 2006 (71 FR 15489). The supplemental letters provided clarifying information that was within the scope of the initial notice and did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated: November 3, 2006.

No significant hazards consideration comments received: No. 65.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: July 6, 2006 (TS–06–04).

Brief description of amendments: The amendment revises Technical Specification 3.1.3.2, ''Position Indication Systems—Operating,'' for the Sequoyah Nuclear Plant, Units 1 and 2,

to allow for the use of an alternate means other than movable incore detectors to monitor the position of a control or shutdown rod should problems occur with the analog rod position indication system. The use of this alternate method will reduce the frequency of flux mapping using movable incore detectors to determine the position of the non-indicating rod. This will reduce the wear on the movable incore detector system that is also used to complete other required TS surveillances.

Date of issuance: December 11, 2006.

Effective date: As of the date of issuance and shall be implemented within 45 days.

Amendment Nos.: 315 and 304.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revised the technical specifications.

Date of initial notice in ***Federal Register:*** August 15, 2006 (71 FR 46938). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: May 1, 2006 (TS–05–10).

Brief description of amendments: The amendments modify the Technical Specification (TS) Section 6.0, ''Administrative Controls,'' to adopt a Nuclear Regulatory Commission-approved topical report that extends the burnup limit of the Mark-BW fuel design with M5 alloy. These amendments also incorporate Technical Specification Task Force Traveler (TSTF) 363, Revision 0, ''Revised Topical Report References in Improved Technical Specification 5.6.5, Core Operating Limits Report.'' TSTF–363 makes administrative changes to the format of referenced topical reports in the TSs.

Date of issuance: November 16, 2006.

Effective date: As of the date of issuance and shall be implemented within 45 days.

Amendment Nos. 314 and 303.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revised the technical specifications.

Date of initial notice in ***Federal Register:*** June 20, 2006 (71 FR 35459).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 16, 2006.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendment: June 16, 2006.

Brief description of amendment: The amendment revises TS Section 5.7.2.11, ''Inservice Testing Program'', consistent with Technical Specification Task Force (TSTF) Traveler 479, Revision 0, ''Changes to Reflect Revision of 10 CFR 50.55a'' and TSTF 279, Revision 0, ''Remove 'applicable supports' from Inservice Testing Program.'' The changes replace references to Section XI of the ASME Boiler and Pressure Vessel Code with the ASME Operation and Maintenance Code for inservice testing (IST) activities and removes reference to ''applicable supports'' from the IST program. In addition, the changes limit the applicability of Surveillance Requirement 3.0.2 provisions to other normal and accelerated frequencies specified as two years or less in the IST program.

Date of issuance: December 18, 2006.

Effective date: As of the date of issuance and shall be implemented no later than the start of the second 10-year IST interval.

Amendment No. 66.

Facility Operating License No. NPF–90: Amendment revises the technical specifications.

Date of initial notice in ***Federal Register:*** August 15, 2006 (71 FR 46939). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 18, 2006.

No significant hazards consideration comments received: No.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: May 9, 2006.

Brief description of amendment: The amendment revised Technical Specifications (TS) 1.1, ''Definitions,'' and TS 3.4.16, ''RCS [Reactor Coolant System] Specific Activity.'' The revisions replaced the current Limiting Condition for Operation (LCO) 3.4.16 limit on RCS gross-specific activity with limits on RCS Dose Equivalent I–131 and Dose Equivalent Xe–133 (DEX). The conditions and required actions for LCO 3.4.16 not being met, as well as surveillance requirements for LCO 3.4.16, are revised. The modes of applicability for LCO 3.4.16 are extended. The current definition of Ē—Average Disintegration Energy in TS 1.1 is replaced by the definition of DEX. In addition, the current definition of Dose Equivalent I–131 in TS 1.1 is revised to allow alternate NRC-approved thyroid dose conversion factors.

Date of issuance: December 18, 2006.

Effective date: As of its date of issuance, and shall be implemented within 90 days of the date of issuance.

Amendment No.: 178.

Facility Operating License No. NPF–30: The amendment revised the Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** June 20, 2006 (71 FR 35461).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 18, 2006.

No significant hazards consideration comments received: No.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: May 9, 2006.

Brief description of amendment: The amendment revised Technical Specifications (TS) 1.1, ''Definitions,'' and TS 3.4.16, ''RCS [Reactor Coolant System] Specific Activity.'' The revisions replaced the current Limiting Condition for Operation (LCO) 3.4.16 limit on RCS gross-specific activity with limits on RCS Dose Equivalent I–131 and Dose Equivalent Xe–133 (DEX). The conditions and required actions for LCO 3.4.16 not being met, as well as surveillance requirements for LCO 3.4.16, are revised. The modes of applicability for LCO 3.4.16 are extended. The current definition of Ē—Average Disintegration Energy in TS 1.1 is replaced by the definition of DEX. In addition, the current definition of Dose Equivalent I–131 in TS 1.1 is revised to allow alternate NRC-approved thyroid dose conversion factors.

Date of issuance: December 18, 2006.

Effective date: As of its date of issuance, and shall be implemented within 90 days of the date of issuance.

Amendment No.: 178.

Facility Operating License No. NPF–30: The amendment revised the Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** June 20, 2006 (71 FR 35461).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 18, 2006.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: February 1, 2006, as supplemented by letter dated May 24, 2006.

Brief description of amendment: The amendment revised the Inservice Testing Program in Section 5.5.8 of the Technical Specifications, ''Administrative Controls, Programs and Manuals,'' to adopt the Commission-approved Technical Specification Task Force (TSTF)–479, Revision 0, ''Changes to Reflect Revision of 10CFR50.55a.''

Date of issuance: November 15, 2006.

Effective date: Effective as of its date of issuance and shall be implemented within 90 days of the date of issuance.

Amendment No.: 172.

Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 28, 2006 (71 FR 10079).

The supplemental letter dated May 24, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination published in the **Federal Register.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 15, 2006.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this December 26, 2006.

For the Nuclear Regulatory Commission.

Timothy J. McGinty,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–22492 Filed 12–29–06; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[EA–06–264]

In the Matter of Louisiana Energy Services, L.P. National Enrichment Facility and All Other persons Who Seek or Obtain Access to Safeguards Information Described Herein; Order Imposing Fingerprinting and Criminal History Check Requirements for Access to Safeguards Information (Effective Immediately)

I

Louisiana Energy Services, L.P. (LES) holds a license, issued in accordance with the Atomic Energy Act (AEA) of 1954, by the U.S. Nuclear Regulatory Commission (NRC), authorizing it to construct and operate a uranium enrichment facility in Lea County, New Mexico. On August 8, 2005, the Energy Policy Act of 2005 (EPAct) was enacted. Section 652 of the EPAct amended Section 149 of the AEA to require fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check of any person who is to be permitted to have access to Safeguards Information (SGI).[1] The NRC's implementation of this requirement cannot await the completion of the SGI rulemaking, which is underway, because the EPAct fingerprinting and criminal history check requirements for access to SGI were immediately effective on enactment of the EPAct. The EPAct permits the Commission, by rule, to except certain categories of individuals from the fingerprinting requirement, which the Commission has done [see 10 CFR 73.59, 71 **Federal Register** 33989 (June 13, 2006)].

Individuals relieved from fingerprinting and criminal history checks under the relief rule include: Federal, State, and local officials and law enforcement personnel; Agreement State Inspectors who conduct security inspections on behalf of the NRC; members of Congress and certain employees of members of Congress or Congressional Committees; and representatives of the International Atomic Energy Agency or certain foreign government organizations. In addition, individuals who have a favorably-decided U.S. Government criminal history check within the last five (5) years, and individuals who have active federal security clearances (provided in either case that they make available the appropriate documentation), have satisfied the EPAct fingerprinting requirement and need not be fingerprinted again. Therefore, in accordance with Section 149 of the AEA, as amended by the EPAct, the Commission is imposing additional requirements for access to SGI, as set forth by this Order, so that affected licensees can obtain and grant access to SGI. This Order also imposes requirements for access to SGI by any person,[2] from any person, whether or not they are a licensee, applicant, or certificate holder of the Commission or an Agreement States.

Subsequent to the terrorist events of September 11, 2001, the NRC issued Orders requiring certain entities to implement Additional Security Measures (ASMs) or Interim Compensatory Measures (ICMs) for certain radioactive materials. The requirements imposed by these Orders, and certain measures that licensees have developed to comply with the Orders, were designated by the NRC as SGI. For some materials licensees, the storage and handling requirements for the SGI have been modified from the existing 10 CFR Part 73 SGI requirements for reactors and fuel cycle facilities that require a higher level of protection; such SGI is designated as Safeguards Information-Modified Handling (SGI–M). However, the information subject to the SGI–M handling and protection requirements is SGI, and licensees and other persons who seek or obtain access to such SGI are subject to this Order.

II

The Commission has broad statutory authority to protect and prohibit the unauthorized disclosure of SGI. Section 147 of the AEA grants the Commission explicit authority to issue such Orders, as necessary, to prohibit the unauthorized disclosure of SGI. Furthermore, Section 652 of the EPAct amended Section 149 of the AEA to require fingerprinting and an FBI identification and a criminal history records check of each individual who seeks access to SGI. In addition, as required by existing Orders, which

[1] Safeguards Information is a form of sensitive, unclassified, security-related information that the Commission has the authority to designate and protect under Section 147 of the AEA.

[2] Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy, except that the Department of Energy shall be considered a person with respect to those facilities of the Department of Energy specified in Section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

remain in effect, no person may have access to SGI unless the person has an established need-to-know, and satisfies the trustworthiness and reliability requirements of those Orders.

In order to provide assurance that LES is implementing appropriate measures to comply with the fingerprinting and criminal history check requirements for access to SGI, LES shall implement the requirements of this Order. In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety and interest require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 53, 62, 63, 81, 147, 149, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR Part 30, 10 CFR Part 40, 10 CFR Part 70, and 10 CFR Part 73, it is hereby ordered, effective immediately, that LES and all other persons who seek or obtain access to safeguards information described herein shall comply with the requirements set forth in this order.

A. 1. No person may have access to SGI unless that person has a need-to-know the SGI, has been fingerprinted or has a favorably-decided FBI identification and criminal history records check, and satisfies all other applicable requirements for access to SGI. Fingerprinting and the FBI identification and criminal history records check are not required, however, for any person who is relieved from that requirement by 10 CFR 73.59 [71 **Federal Register** 33989 (June 13, 2006)], or who has a favorably-decided U.S. Government criminal history check within the last five (5) years, or who has an active federal security clearance, provided in each case that the appropriate documentation is made available to LES's NRC-approved reviewing official.

2. No person may have access to any SGI if the NRC, when making an SGI access determination for a nominated reviewing official, has determined, based on fingerprinting and an FBI identification and criminal history records check, that the person may not have access to SGI.

B. No person may provide SGI to any other person except in accordance with Condition III.A. above. Prior to providing SGI to any person, a copy of this Order shall be provided to that person.

C. LES shall comply with the following requirements:

1. LES shall, within twenty (20) days of the date of this Order, establish and maintain a fingerprinting program that meets the requirements of the Attachment to this Order.

2. LES shall, within twenty (20) days of the date of this Order, submit the fingerprints of one (1) individual who currently has access to SGI in accordance with the previously-issued NRC Orders, who continues to need access to SGI, and who LES nominates as the ''reviewing official'' for determining access to SGI by other individuals. The NRC will determine whether this individual (or any subsequent reviewing official) may have access to SGI and, therefore, will be permitted to serve as LES's reviewing official.[3] LES may, at the same time or later, submit the fingerprints of other individuals to whom LES seeks to grant access to SGI. Fingerprints shall be submitted and reviewed in accordance with the procedures described in the Attachment to this Order.

3. LES may allow any individual who currently has access to SGI in accordance with the previously-issued NRC Orders to continue to have access to previously-designated SGI without being fingerprinted, pending a decision by the NRC-approved reviewing official (based on fingerprinting, an FBI criminal history records check and a trustworthiness and reliability determination) that the individual may continue to have access to SGI. LES shall make determinations on continued access to SGI within ninety (90) days of the date of this Order, in part on the results of the fingerprinting and criminal history check, for those individuals who were previously granted access to SGI before the issuance of this Order.

4. LES shall, in writing, within twenty (20) days of the date of this Order, notify the Commission: (1) If it is unable to comply with any of the requirements described in the Order, including the Attachment, or (2) if compliance with any of the requirements is unnecessary in its specific circumstances. The notification shall provide LES's justification for seeking relief from or variation of any specific requirement.

Licensee responses to C.1., C.2., C.3., and C.4. above shall be submitted to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. In addition, licensee responses shall be marked as ''Security-Related Information—Withhold Under 10 CFR. 2.390.''

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions on demonstration of good cause by LES.

IV

In accordance with 10 CFR 2.202, LES must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing regarding this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for an extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law by which LES or other entities adversely affected rely, and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies shall also be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to LES if the answer or hearing request is by a person other than LES. Because of possible delays in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101, or via e-mail to *hearingdocket@nrc.gov,* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725, or via e-mail to *OGCMailCenter@nrc.gov.* If an entity other than LES requests a hearing, that entity shall set forth, with particularity, the manner in which their interest is adversely affected by this Order, and shall address the criteria set forth in 10 CFR 2.309.

If a hearing is requested by LES or a person whose interest is adversely affected, the Commission will issue an

[3] The NRC's determination of this individual's access to SGI in accordance with the process described in Enclosure 3 to the transmittal letter of this Order is an administrative determination that is outside the scope of this Order.

Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at a such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), LES may, in addition to demanding a hearing, at the time the answer is filed, or sooner, move that the presiding officer set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions as specified above in Section III, shall be final twenty (20) days from the date of this Order without further order or proceedings.

If an extension of time for requesting a hearing has been approved, the provisions as specified above in Section III shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 20th day of December 2006.

For the Nuclear Regulatory Commission.

Jack R. Strosnider,

Director, Office of Nuclear Material Safety and Safeguards.

Attachment: Requirements for Fingerprinting and Criminal History Checks of Individuals When Licensee's Reviewing Official Is Determining Access to Safeguards Information

General Requirements

Licensees shall comply with the requirements of this attachment.

A. 1. Each licensee subject to the provisions of this attachment shall fingerprint each individual who is seeking or permitted access to Safeguards Information (SGI). The licensee shall review and use the information received from the Federal Bureau of Investigation (FBI) and ensure that the provisions contained in the subject Order and this attachment are satisfied.

2. The licensee shall notify each affected individual that the fingerprints will be used to secure a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the ''Right to Correct and Complete Information'' section of this attachment.

3. Fingerprints need not be taken if an employed individual (e.g., a licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR 73.59, has had a favorably-decided U.S. Government criminal history records check within the last five (5) years, or has an active federal security clearance. Written confirmation from the Agency/employer which granted the federal security clearance or reviewed the criminal history records check must be provided. The licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires access to SGI associated with the licensee's activities.

4. All fingerprints obtained by the licensee pursuant to this Order must be submitted to the Commission for transmission to the FBI.

5. The licensee shall review the information received from the FBI and consider it, in conjunction with the trustworthy and reliability requirements included in Attachment 3 to this Order, in making a determination whether to grant access to SGI to individuals who have a need-to-know the SGI.

6. The licensee shall use any information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for access to SGI.

7. The licensee shall document the basis for its determination whether to grant access to SGI.

B. The licensee shall notify the NRC of any desired change in reviewing officials. The NRC will determine whether the individual nominated as the new reviewing official may have access to SGI based on a previously-obtained or new criminal history check and, therefore, will be permitted to serve as the licensee's reviewing official.

Prohibitions

A licensee shall not base a final determination to deny an individual access to SGI solely on the basis of information received from the FBI involving: an arrest more than one (1) year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.

A licensee shall not use information received from a criminal history check obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the licensee use the information in any way which would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

Procedures for Processing Fingerprint Checks

For the purpose of complying with this Order, licensees shall, using an appropriate method listed in 10 CFR 73.4, submit to the NRC's Division of Facilities and Security, Mail Stop T–6E46, one completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ) or, where practicable, other fingerprint records for each individual seeking access to SGI, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling (301) 415–5877, or by e-mail to *forms@nrc.gov*. Practicable alternative formats are set forth in 10 CFR 73.4. The licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.

The NRC will review submitted fingerprint cards for completeness. Any Form FD–258 fingerprint record containing omissions or evident errors will be returned to the licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee.

Fees for processing fingerprint checks are due upon application. Licensees shall submit payment with the application for processing fingerprints by corporate check, certified check, cashier's check, money order, or electronic payment, made payable to ''U.S. NRC.'' [For guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at (301) 415–7404]. Combined payment for multiple applications is acceptable. The application fee (currently $27) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of licensee fingerprint submissions. The Commission will

directly notify licensees who are subject to this regulation of any fee changes.

The Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for criminal history records checks, including the FBI fingerprint record.

Right to Correct and Complete Information

Prior to any final adverse determination, the licensee shall make available to the individual the contents of any criminal records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the licensee for a period of one (1) year from the date of the notification.

If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537–9700 (as set forth in 28 CFR 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The licensee must provide at least ten (10) days for an individual to initiate an action challenging the results of an FBI criminal history records check after the record is made available for his/her review. The licensee may make a final SGI access determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to SGI, the licensee shall provide the individual its documented basis for denial. Access to SGI shall not be granted to an individual during the review process.

Protection of Information

1. Each licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures for protecting the record and the personal information from unauthorized disclosure.

2. The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining access to Safeguards Information. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need-to-know.

3. The personal information obtained on an individual from a criminal history record check may be transferred to another licensee if the licensee holding the criminal history record check receives the individual's written request to re-disseminate the information contained in his/her file, and the current licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

4. The licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

5. The licensee shall retain all fingerprint and criminal history records received from the FBI, or a copy if the individual's file has been transferred, for three (3) years after termination of employment or determination of access to SGI (whether access was approved or denied). After the required three (3) year period, these documents shall be destroyed by a method that will prevent reconstruction of the information in whole or in part.

[FR Doc. E6–22453 Filed 12–29–06; 8:45 am]
BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27609; 812–13329]

ProShares Trust, et al.; Notice of Application

December 22, 2006.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application to amend a prior order under section 6(c) of the Investment Company Act of 1940 (''Act'') granting an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 24(d) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

APPLICANTS: ProShares Trust (''Trust''), ProShare Advisors LLC (''Adviser''), and SEI Investments Distribution Company (''Distributor'').

SUMMARY OF APPLICATION: Applicants request an order to amend a prior order that permits: (a) Series of an open-end management investment company to issue shares of limited redeemability; (b) secondary market transactions in the shares of the series to occur at negotiated prices; (c) dealers to sell shares of the series to purchasers in the secondary market unaccompanied by a prospectus, when prospectus delivery is not required by the Securities Act of 1933; and (d) affiliated persons of a series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of aggregations of the series' shares (''Prior Order'').[1] Applicants seek to amend the Prior Order to permit the series described in the application for the Prior Order (''Initial Funds'') as well as certain new series (''Additional Funds,'' and together with the Initial Funds, ''Funds'') to be offered using equity securities indices different than those permitted under the Prior Order (''New Underlying Indices'').

FILING DATES: The application was filed on September 15, 2006, and amended on December 20, 2006.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 17, 2007, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

[1] ProShares Trust, et al., Investment Company Act Release Nos. 27323 (May 18, 2006) (notice) and 27394 (June 13, 2006) (order).

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants: ProShares Trust and Adviser, 7501 Wisconsin Avenue, Suite 1000, Bethesda, MD 20814; SEI Investments Distribution Company, One Freedom Valley Drive, Oaks, PA 19456.

FOR FURTHER INFORMATION CONTACT: John Yoder, Senior Counsel, at (202) 551–6878, or Julia Kim Gilmer, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Desk, 100 F Street, NE., Washington, DC 20549–0102 (tel. 202–551–5850).

Applicants' Representations

1. The Trust is an open-end management investment company registered under the Act and organized as a Delaware statutory trust. The Trust is authorized to offer an unlimited number of series. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and will advise each Fund. The Adviser may enter into subadvisory agreements with additional investment advisers to act as subadviser to the Trust and any Fund. Any subadviser to the Trust or a Fund will be registered under the Advisers Act. The Distributor is registered as a broker-dealer under the Securities Exchange Act of 1934 and will act as the distributor and principal underwriter for each Fund's shares.

2. The Prior Order permits the Initial Funds to seek daily investment results, before fees and expenses, that correspond to 100%, 125%, 150% or 200% of the performance, or the inverse of the performance, or 125%, 150% or 200% of the inverse multiple of the performance of particular equity securities indices.[2] Applicants seek to amend the Prior Order to permit both the Initial Funds and Additional Funds to be offered using New Underlying Indices.[3] All Additional Funds will operate in a manner identical to the Initial Funds. No creator, provider or compiler of a New Underlying Index is or will be an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of the Trust, a promoter, the Adviser, any subadviser to any Fund, or the Distributor.

3. Applicants state that the Funds will be offered pursuant to the same terms and provisions contained in the application for the Prior Order. Applicants agree that the amended order will subject applicants to the same conditions as imposed by the Prior Order. Applicants believe that the requested relief continues to meet the necessary exemptive standards.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–22447 Filed 12–29–06; 8:45 am]

BILLING CODE 8011–01–P

[2] The Prior Order permits the Trust to offer Initial Funds based on the following underlying indices only: S&P 500 Index, Nasdaq100 Index, Dow Jones Industrial Average, S&P MidCap400 Index, Russell 2000 Index, S&P Small Cap 600 Index, Nasdaq Composite Index, S&P 500/ Citigroup Value Index (formerly S&P 500 BARRA Value Index), S&P 500/ Citigroup Growth Index (formerly S&P 500 BARRA Growth Index), S&P MidCap400/ Citigroup Value Index (formerly S&P MidCap400 BARRA Value Index), S&P MidCap 400/ Citigroup Growth Index (formerly S&P MidCap 400/BARRA Growth Index), S&P SmallCap 600/ Citigroup Value Index (formerly S&P SmallCap 600/Barra Value Index), S&P SmallCap 600/ Citigroup Growth Index (formerly S&P SmallCap 600/BARRA Growth Index), Dow Jones U.S. Airlines Index, Dow Jones U.S. Banks Index, Dow Jones U.S. Basic Materials Sector Index, Dow Jones U.S. Biotechnology Index, Dow Jones U.S. Composite Internet Index, Dow Jones U.S. Consumer Services Index, Dow Jones U.S. Consumer Goods Index, Dow Jones U.S. Oil & Gas Index, Dow Jones U.S. Financials Index, Dow Jones U.S. Health Care Index, Dow Jones U.S. Industrials Index, Dow Jones U.S. Leisure Goods Index, Dow Jones U.S. Oil Equipment, Services & Distribution Index, Dow Jones U.S. Pharmaceuticals Index, Dow Jones U.S. Precious Metals Index, Dow Jones U.S. Real Estate Index, Dow Jones U.S. Semiconductors Index, Dow Jones U.S. Technology Index, Dow Jones U.S. Telecommunications Index, Dow Jones U.S. Utilities Index and Dow Jones U.S. Mobile Communications Index.

[3] The New Underlying Indices are the S&P 500 Energy Sector Index, S&P 500 Materials Sector Index, S&P 500 Industrials Sector Index, S&P 500 Consumer Discretionary Sector Index, S&P 500 Consumer Staples Sector Index, S&P 500 Health Care Sector Index, S&P 500 Financials Sector Index, S&P 500 Information Technology Sector Index, S&P 500 Telecommunication Services Sector Index, S&P 500 Utilities Sector Index, Russell 1000 Value Index, Russell 1000 Growth Index, Russell MidCap Value Index, Russell MidCap Growth Index, Russell 2000 Value Index, Russell 2000 Growth Index, Russell 3000 Value Index and Russell 3000 Growth Index.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27610; 812–13224]

Ziegler Exchange Traded Trust, et al.; Notice of Application

December 22, 2006.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 24(d) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit (a) series of registered open-end management investment companies, to issue shares (''Fund Shares'') that can be redeemed only in large aggregations (''Creation Unit Aggregations''); (b) secondary market transactions in Fund Shares to occur at negotiated prices; (c) dealers to sell Fund Shares to purchasers in the secondary market unaccompanied by a prospectus when prospectus delivery is not required by the Securities Act of 1933 (''Securities Act''); and (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Unit Aggregations.

APPLICANTS: Ziegler Exchange Traded Trust (''Trust''); Ziegler Capital Management, LLC (''Advisor''); and B.C. Ziegler and Company (''Distributor'').

FILING DATES: The application was filed on August 16, 2005, and amended on June 5, 2006, November 17, 2006, and December 19, 2006.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 17, 2007, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicants, 250 East Wisconsin Avenue, Suite 2200, Milwaukee, WI 53202.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel at (202) 551–6876, or Stacy L. Fuller, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Public Reference Desk, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington DC 20549–0102, telephone (202) 551–5850.

Applicants' Representations

1. The Trust is registered as an open-end management investment company and is organized as a Delaware statutory trust that may offer multiple series (''Funds''). Each Fund will track an index of domestic equity securities (''Underlying Index''). The initial Fund (''Initial Fund'') will track the NYSE Arca Tech 100 Index.

2. The Advisor is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). The Advisor will serve as the investment adviser to the Initial Fund. The Adviser may enter into sub-advisory agreements with other investment advisers to act as ''sub-advisers'' with respect to the Funds. Any sub-adviser will be registered under the Advisers Act. The Distributor, a broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act''), will serve as the principal underwriter and distributor of Fund Shares.

3. Each Fund will hold certain U.S. equity securities (''Portfolio Securities'') including American Depository Receipts (''ADRs'') selected to correspond generally to the price and yield performance, before fees and expenses, of an Underlying Index. No entity that creates, compiles, sponsors or maintains an Underlying Index is or will be an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of the Trust, Advisor, Distributor, or promoter of or any sub-adviser to, a Fund. The Trust intends to offer additional Funds in the future based on other Underlying Indices (included in the defined term ''Funds''). Any such future Funds will (a) comply with the terms and conditions of any order granted pursuant to the application and (b) be advised by the Advisor or an entity controlling, controlled by or under common control with the Advisor (included in the defined term ''Advisor''). All Funds that currently intend to rely on the requested order are named as applicants.

4. The investment objective of each Fund will be to provide investment results that correspond generally to the price and yield performance of its Underlying Index. Intra-day values of the Underlying Index will be disseminated every 15 seconds throughout the trading day. A Fund will utilize either a ''replication'' or ''representative sampling'' strategy.[1] A Fund using a replication strategy will invest in substantially all of the component securities in its Underlying Index in approximately the same weightings as in the Underlying Index. In certain circumstances, such as when there are practical difficulties or substantial costs involved in holding every security in an Underlying Index or when a component security is illiquid, a Fund may use a representative sampling strategy pursuant to which it will invest in some, but not all, of the relevant component securities.[2] Applicants anticipate that a Fund that utilizes a representative sampling strategy will not track the performance of its Underlying Index with the same degree of accuracy as an investment vehicle that invests in every component security of the Underlying Index in the same weighting as the Underlying Index. Applicants expect that each Fund will have a tracking error relative to the performance of its Underlying Index of no more than five percent.

5. Fund Shares will be sold at a price of between $20 and $300 per Fund Share in Creation Unit Aggregations of between 50,000 and 100,000 Fund Shares. All orders to purchase Creation Unit Aggregations must be placed with the Distributor by or through a party that has entered into an agreement with the Trust and Distributor (''Authorized Participant''). An Authorized Participant must be either: (a) A broker-dealer or other participant in the continuous net settlement system of the National Securities Clearing Corporation (''NSCC''), a clearing agency registered with the Commission, or (b) a participant in the Depository Trust Company (''DTC'', and such participant, ''DTC Participant''). Shares of each Fund generally will be sold in Creation Unit Aggregations in exchange for an in-kind deposit by the purchaser of a portfolio of securities designated by the Adviser (''Deposit Securities''), together with the deposit of a specified cash payment (''Cash Amount'').[3] The Cash Amount is generally an amount equal to the difference between (a) the net asset value (''NAV'') (per Creation Unit Aggregation) of the Fund and (b) the total aggregate market value (per Creation Unit Aggregation) of the Deposit Securities.[4] Applicants state that in some circumstances it may not be practicable or convenient for a Fund to operate exclusively on an ''in-kind'' basis. The Trust reserves the right to permit, under certain circumstances, a purchaser of Creation Unit Aggregations to substitute cash in lieu of depositing some or all of the requisite Deposit Securities. An investor purchasing a Creation Unit Aggregation from a Fund will be charged a fee (''Transaction Fee'') to prevent the dilution of the interests of the remaining shareholders resulting from costs in connection with the purchase of Creation Unit Aggregations.[5] The Transaction Fees relevant to each Fund (including the maximum Transaction Fees) will be fully disclosed in the prospectus of such Fund (''Prospectus''), and the method for calculating the Transaction Fees will be disclosed in each Fund's statement of additional information (''SAI''). The Distributor will be responsible for transmitting orders to the Funds, for delivering the Prospectus to those persons purchasing Creation Unit Aggregations and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the NSCC or DTC, as appropriate, will maintain a record of the instructions given to the

[1] Applicants represent that a Fund will normally invest at least 90% of its total assets in the component securities that comprise its Underlying Index. Each Fund may invest up to 10% of its assets in certain futures, options and swap contracts, cash and cash equivalents, as well as in stocks not included in its Underlying Index, but which the Adviser believes will help the Fund track it's Underlying Index.

[2] Under the representative sampling strategy, the Adviser will seek to construct a Fund's portfolio to have aggregate investment characteristics, fundamental characteristics, and liquidity measures similar to those of the Underlying Index.

[3] The Funds must comply with the federal securities laws in accepting Deposit Securities and satisfying redemptions with Redemptions Securities, including that the Deposit Securities and Redemption Securities are sold in transactions that would be exempt from registration under the Securities Act of 1933. The specified Deposit Securities and Redemption Securities will generally correspond pro rata to the Portfolio Securities.

[4] The Trust will sell Creation Unit Aggregations of each Fund on any ''Business Day,'' which is defined to include any day that the Fund is open for business, including as required by section 22(e) of the Act. In addition to the list of names (and amount of each security constituting the current Deposit Securities), the Cash Amount effective as of the previous Business Day will be made available. Any Exchange on which Fund Shares are listed will disseminate, every 15 seconds, during its regular trading hours, through the facilities of the Consolidated Tape Association, an approximate amount per Fund Share representing the sum of the estimated Cash Component effective through and including the previous Business Day, plus the current value of the Deposit Securities, on a per Fund Share basis.

[5] Where a Fund permits a purchaser to substitute cash in lieu of depositing a portion of the requisite Deposit Securities, the purchaser may be assessed a higher Transaction Fee to cover the cost to the Fund of purchasing such Deposit Securities.

Trust to implement the delivery of Fund Shares.

6. Purchasers of Creation Unit Aggregations of Fund Shares may hold such Fund Shares or may sell such Fund Shares into the secondary market. Fund Shares will be listed and traded on NYSE Arca, Inc. (''NYSE Arca'') and NYSE Arca, LLC (''NYSE Arca Marketplace''), respectively.[6] Fund Shares of future Funds may be listed and traded on other Exchanges (''Other Exchanges''). It is expected that one or more of the market makers that are members of NYSE Arca (''Arca Market Makers'') will register to make a market in Fund Shares listed on NYSE Arca. With respect to listings of Fund Shares on certain Other Exchanges, one or more member firms of the Other Exchange will be designated to act as a specialist and maintain a market for Fund Shares on the Exchange (a ''Specialist''). If Nasdaq is the listing Exchange of Fund Shares, one or more member firms of Nasdaq will act as market makers (''Nasdaq Market Makers,'' and together with the Arca Market Makers, ''Market Makers'') and maintain a market for Fund Shares. Prices of Fund Shares trading on an Exchange will be based on the current bid/offer market. Fund Shares sold in the secondary market will be subject to customary brokerage commissions and charges.

7. Applicants expect that purchasers of Creation Unit Aggregations will include institutional investors and arbitrageurs (which could include institutional investors). A Specialist or Market Maker also may purchase Creation Unit Aggregations for use in market-making activities. Applicants expect that secondary market purchasers of Fund Shares will include both institutional investors and retail investors.[7] Applicants expect that the price at which Fund Shares trade will be disciplined by arbitrage opportunities created by the ability to continually purchase or redeem Creation Unit Aggregations at their NAV, which should ensure that Fund Shares will not trade at a material discount or premium in relation to their NAV.

8. Fund Shares will not be individually redeemable, and owners of Fund Shares may acquire those Fund Shares from the Fund, and tender Fund Shares for redemption to the Fund, in Creation Unit Aggregations only. To redeem, an investor will have to accumulate enough Fund Shares to constitute a Creation Unit Aggregation. Redemption orders must be placed by or through an Authorized Participant. An investor redeeming a Creation Unit Aggregation generally will receive (a) a portfolio of securities designated to be delivered for Creation Unit Aggregation redemptions on the date that the request for redemption is submitted (''Redemption Securities''), which may not be identical to the Deposit Securities required to purchase Creation Unit Aggregations on that date, and (b) a ''Cash Redemption Payment,'' consisting of an amount calculated in the same manner as the Cash Component. An investor may receive the cash equivalent of a Redemption Security in certain circumstances, such as if the investor is constrained from effecting transactions in the security by regulation or policy. A redeeming investor will pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Unit Aggregations.

9. Neither the Trust nor any individual Fund will be marketed or otherwise held out as an ''open-end investment company'' or a ''mutual fund.'' Instead, each Fund will be marketed as an ''exchange-traded fund,'' an ''investment company,'' a ''fund,'' or a ''trust.'' All marketing materials that describe the method of obtaining, buying or selling Fund Shares, or refer to redeemability, will prominently disclose that Fund Shares are not individually redeemable and that the owners of Fund Shares may purchase or redeem Fund Shares from the Fund in Creation Unit Aggregations only. The same approach will be followed in the SAI, shareholder reports and investor educational materials issued or circulated in connection with the Fund Shares. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Fund Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 24(d) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent. Because Fund Shares will not be individually redeemable, applicants request an order that would permit the Trust to register as an open-end management investment company and issue Fund Shares that are redeemable in Creation Units Aggregations only. Applicants state that investors may purchase Fund Shares in Creation Unit Aggregations and redeem Creation Unit Aggregations from each Fund. Applicants further state that because the market price of Fund Shares will be disciplined by arbitrage opportunities, investors should be able to sell Fund Shares in the secondary market at prices that do not vary substantially from their NAV.

Section 22(d) of the Act and Rule 22c–1 under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security, which is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Fund Shares will take place

[6] NYSE Arca is a national securities exchange, as defined in section 2(a)(26) of the Act (''Exchange''). The NYSE Arca Marketplace is the equities trading facility of NYSE Arca. Trading on the NYSE Arca Marketplace is subject to the rules (''NYSE Arca Equities Rules'') of NYSE Arca Equities, Inc., a subsidiary of NYSE Arca.

[7] Fund Shares will be registered in book-entry form only. DTC or its nominee will be the registered owner of all outstanding Fund Shares. DTC or DTC Participants will maintain records reflecting beneficial owners of Fund Shares.

at negotiated prices, not at a current offering price described in a Prospectus, and not at a price based on NAV. Thus, purchases and sales of Fund Shares in the secondary market will not comply with section 22(d) and rule 22c–1. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) and rule 22c–1 with respect to pricing are equally satisfied by the proposed method of pricing Fund Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Fund Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Fund Shares does not involve the Funds as parties and cannot result in dilution of an investment in Fund Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Fund Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity will ensure that the difference between the market price of Fund Shares and their NAV remains narrow.

Section 24(d) of the Act

7. Section 24(d) of the Act provides, in relevant part, that the prospectus delivery exemption provided to dealer transactions by section 4(3) of the Securities Act does not apply to any transaction in a redeemable security issued by an open-end investment company. Applicants seek relief from section 24(d) to permit dealers selling Fund Shares in the secondary market to rely on the prospectus delivery exemption provided by section 4(3) of the Securities Act.[8]

8. Applicants state that Fund Shares are bought and sold in the secondary market in the same manner as closed-end fund shares. Applicants note that transactions in closed-end fund shares are not subject to section 24(d), and thus closed-end fund shares are sold in the secondary market without a prospectus. Applicants contend that Fund Shares likewise merit a reduction in the unnecessary compliance costs and regulatory burdens resulting from the imposition of the prospectus delivery obligations in the secondary market. Because Fund Shares will be listed on an Exchange, prospective investors will have access to information about the product over and above what is normally available about an open-end security. Applicants state that information regarding market price and volume will be continually available on a real time basis throughout the day on brokers' computer screens and other electronic services. The previous day's price and volume information will be published daily in the financial section of newspapers. In addition, a website will be maintained that will include each Fund's Prospectus and SAI, the relevant Underlying Index for each Fund, and additional quantitative information that is updated on a daily basis, including the closing price of Fund Shares, the prior Business Day's NAV for each Fund, and a calculation of the premium or discount of the closing price against the NAV, as well as data in chart format displaying the frequency distribution of discounts and premiums of the closing price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

9. Applicants will arrange for broker-dealers selling Fund Shares in the secondary market to provide purchasers with a product description (''Product Description'') that describes, in plain English, the relevant Fund and the Fund Shares it issues. Applicants state that a Product Description is not intended to substitute for a full Prospectus. Applicants state that the Product Description will be tailored to meet the information needs of investors purchasing Fund Shares in the secondary market.

Section 17(a)(1) and (2) of the Act

10. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, and any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities. Applicants state that there exists the possibility for investors, Specialists, and Market Makers to own 5% or more, or more than 25%, of the Fund Shares of one or more Funds (''first-tier affiliates''). Applicants also state that there exists the possibility for investors to own 5% or more, or more than 25%, of the outstanding voting securities of other registered investment companies advised by the Advisor (together with affiliated persons of first-tier affiliates that are not otherwise affiliated with the Funds, ''second-tier affiliates'').

11. Applicants request an exemption from section 17(a) under sections 6(c) and 17(b) to permit first-tier and second-tier affiliates to effectuate purchases and redemptions in-kind. Applicants assert that no useful purpose would be served by prohibiting these types of affiliated persons from purchasing or redeeming Creation Unit Aggregations through in-kind transactions. The deposit procedures for in-kind purchases and redemptions procedures for in-kind redemptions of Creation Unit Aggregations will be the same for all purchases and redemptions. Deposit Securities and Redemption Securities will be valued in the same manner as

[8] Applicants state that they are not seeking relief from the prospectus delivery requirement for non-secondary market transactions, such as transactions in which an investor purchases Fund Shares from the Funds or an underwriter. Applicants further state that each Prospectus will caution broker-dealers and others that some activities on their part, depending on the circumstances, may result in their being deemed statutory underwriters and subject them to the prospectus delivery and liability provisions of the Securities Act. For example, a broker-dealer firm and/or its client may be deemed a statutory underwriter if it purchases Creation Unit Aggregations from a Fund, breaks them down into the constituent Fund Shares, and sells those Fund Shares directly to customers, or if it chooses to couple the creation of a supply of new Fund Shares with an active selling effort involving solicitation of secondary market demand for Fund Shares. Each Prospectus will state that whether a person is an underwriter depends upon all of the facts and circumstances pertaining to that person's activities. Each Prospectus will caution dealers who are not ''underwriters'' but are participating in a distribution (as contrasted to ordinary secondary market trading transactions), and thus dealing with Fund Shares that are part of an ''unsold allotment'' within the meaning of section 4(3)(C) of the Securities Act, that they would be unable to take advantage of the prospectus delivery exemption provided by section 4(3) of the Securities Act.

Portfolio Securities. Therefore, applicants state, in-kind purchases and redemptions will afford no opportunity for these affiliated persons of a Fund to effect a transaction detrimental to other holders of Fund Shares. Applicants also believe that in-kind purchases and redemptions will not result in self-dealing or overreaching of the Fund.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each Fund's Prospectus and Produce Description will clearly disclose that, for purposes of the Act, Fund Shares are issued by the Funds and that the acquisition of Fund Shares by investment companies is subject to the restrictions of section 12(d)(1) of the Act.

2. As long as a Trust operates in reliance on the requested order, Fund Shares will be listed on an Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end fund or a mutual fund. Each Fund's Prospectus will prominently disclose that Fund Shares are not individually redeemable shares and will disclose that the owners of Fund Shares may acquire those Fund Shares from a Fund and tender those Fund Shares for redemption to a Fund only in Creation Unit Aggregations. Any advertising material that describes the purchase or sale of Creation Unit Aggregations or refers to redeemability will prominently disclose that Fund Shares are not individually redeemable and that owners of Fund Shares may acquire those Fund Shares from a Fund and tender those Fund Shares for redemption to a Fund in Creation Unit Aggregations only.

4. The Web site for the Trust, which is and will be publicly accessible at no charge, will contain the following information, on a per Fund Share basis, for each Fund: (a) The prior Business Day's NAV and the reported closed price, and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. In addition, the Product Description for each Fund will state that the Web site for the Trust has information about the premiums and discounts at which Fund Shares have traded.

5. The Prospectus and annual report for each Fund will also include: (a) The information listed in condition 4(b), (i) in the case of the Prospectus, for the most recently completed year (and the most recently completed quarter or quarters, as applicable) and (ii) in the case of the annual report, for the immediately preceding five years, as applicable; and (b) the following data, calculated on a per Fund Share basis for one, five and ten year periods (or life of the Fund): (i) The cumulative total return and the average annual total return based on NAV and closing price, and (ii) the cumulative total return of the relevant Underlying Index.

6. Before a Fund may rely on the order, the Commission will have approved, pursuant to rule 19b–4 under the Exchange Act, an Exchange rule requiring Exchange members and member organizations effecting transactions in Fund Shares to deliver a Product Description to purchasers of Fund Shares.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E6–22444 Filed 12–29–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of January 1, 2007:

A closed meeting will be held on Thursday, January 4, 2007 at 2 p.m.

Commissioners, Counsels to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (4), (5), (7), (8), (9)(B) and (10) and 17 CFR 200.402(a) (3), (4), (5), (7), (8), (9)(ii), and (10) permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Campos, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting scheduled for Thursday, January 4, 2007 will be:

Formal orders of investigation;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;

An adjudicatory matter;

Regulatory matters regarding financial institutions; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: December 28, 2006.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 06–9968 Filed 12–28–06; 10:58 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55001; File No. SR–CBOE–2006–35]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Its Trading Rotation Rules

December 21, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 6, 2006, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its rules governing trading rotations. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com*), at the Exchange's Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the rule change is to amend CBOE Rule 6.2B, Hybrid Opening System (''HOSS''), which pertains to both opening and closing trading rotations for series trading on the CBOE Hybrid Trading System (''Hybrid''), in order to make various updates and clarifications to the description of the rotation procedures described in the rule. Specifically, the existing rule provides that, prior to the opening, HOSS will accept orders and quotes and will disseminate information to market participants during the pre-opening period about resting orders in the Book that remain from the prior business day and any orders submitted before the opening. The rule will be revised to clarify that the information made available to market participants during this pre-opening period includes the expected opening price (''EOP'') and the expected opening size (''EOS'') given the current resting orders and quotes.[5] In addition, the rule will be revised to clarify that the EOP and EOS are updated intermittently at specific intervals of time (as opposed to a dynamic update). Various references within the rule are also being revised to clarify that both orders and quotes are considered when calculating the EOP and EOS, as well as when calculating the actual opening price and size. The Exchange intended at all times, and built HOSS in such a way, that the calculations and allocation methodologies take into consideration both orders and quotes. The text of Rule 6.2B is simply being revised to more clearly state this fact.

Currently, the existing procedures call for the HOSS opening rotation process to be initiated by the system and an opening notice (the ''Rotation Notice'') sent at a randomly selected time within a number of seconds after the primary market for the underlying security disseminates the opening trade or the opening quote, whichever occurs first. The rule will be revised to provide that the HOSS opening rotation process be initiated and the Rotation Notice sent at a randomly selected time within a number of seconds after the primary market for the underlying security disseminates the opening trade and/or opening quote.[6] Thus, the system may be programmed on a class-by-class basis to initiate the opening process after one event occurs (*i.e.*, opening trade, opening quote or the earlier of the two) or after both events occur. The applicable opening parameters will be determined by the appropriate Procedure Committee and announced to the membership via Regulatory Circular. Allowing for flexibility on when the system initiates the opening process and disseminates the opening Rotation Notice will assist in ensuring a fair and orderly opening.[7]

The existing procedures also provide that the appropriate Exchange Procedure Committee establish the duration of time between when HOSS sends the Rotation Notice and HOSS begins opening series on a class basis at between five and sixty seconds. The rule will be revised to eliminate the minimum five second requirement but will retain the maximum sixty second requirement. Thus, under the revised provision, the appropriate Exchange Procedure Committee will establish the duration of time between when HOSS sends the Rotation Notice and begins opening series on a class basis, but the established duration will not exceed sixty seconds. Pronouncements regarding the applicable duration will be announced to the membership via Regulatory Circular.

In addition, the rule is being revised to eliminate outdated references to a ''Lock Interval,'' which is no longer applicable to the operation of the HOSS system.[8] The existing procedures also describe various conditions under which HOSS will not open a series and the alternate process that is followed in the event one of the conditions is present. The rule will be revised to clarify that, if the opening price is not within an acceptable range determined by the appropriate Exchange Procedure Committee compared to the lowest quote offer and highest quote bid, a notification will be sent to market participants and the senior official in the Exchange's Control Room may authorize the opening of the affected series where necessary to ensure a fair and orderly market. The existing rule merely indicated that a notification would be sent, but did not make explicit the senior official's authority if this condition should occur.

The existing rule also provides that the HOSS rotation procedures may be employed to conduct a closing rotation whenever the Exchange concludes that such action is appropriate in the

[5] The EOP is the price at which the greatest number of orders and quotes in the Book are expected to trade. An EOP may only be calculated if: (i) There are market orders in the Book, or the Book is crossed (highest bid is higher than the lowest offer) or locked (highest bid equals the lowest offer), and (ii) at least one quote is present. Spread orders and contingency orders do not participate in the opening trade or in the determination of the opening price, EOP or EOS.

[6] This process will apply for non-index option classes. For index option classes, HOSS will continue to initiate the opening procedure and send the Rotation Notice at a randomly selected time within a number of seconds after 8:30 a.m. unless unusual circumstances exist. *See* renumbered paragraph (b) of CBOE Rule 6.2B.

[7] In the event an underlying security has not opened within a reasonable time after 8:30 a.m. (CT), the proposed text of Rule 6.2B provides that the DPM or LMM, as applicable, acting in option contracts on such security shall report the delay to a Floor Official and an inquiry shall be made to determine the cause of the delay. The opening rotation for option contracts in such security shall be delayed until the underlying security has opened unless two Floor Officials determine that the interest of a fair and orderly market are best served by opening trading in the option contracts. In those classes that initiate the Rotation Notice following both the opening print trade and opening quote, the Exchange anticipates that the underlying print and quote will generally occur within a few seconds of one another, and for the most part within sixty seconds. However, in the particular event where the underlying security of an option class has not opened within a reasonable time after 8:30 a.m. (CT) and the DPM or LMM believes the delay is because the primary market where it has traded (i) has not reported an opening trade in the underlying security (ii) but has disseminated opening quotations and not given an indication of a delayed opening, the DPM or LMM, as applicable, acting in option contracts on such security shall report the delay directly to the Exchange's Help Desk (referred to in the rule text as the ''Control Room'') instead of to a Trading Official. Following such a report, or following notification by the Control Room to the DPM or LMM of such an event, the senior official in the Control Room may authorize the initiation of the opening process in the affected class where necessary to ensure a fair and orderly market.

[8] The Lock Interval was described in the rule a brief period during which HOSS established the opening price and during which orders and quotes could be submitted but not included in the opening trade.

interests of a fair and orderly market. Revisions to the rule clarify that the decision whether to employ a closing rotation in a series trading on HOSS will be governed by the provisions of Rule 6.2B, and not the various provisions of Rule 6.2, *Trading Rotations.* These changes are intended to clarify that Hybrid closing rotations may be conducted at expiration for expiring series per Rule 6.2B, but are not mandatory. The proposal seeks also to make various changes to simplify the text in Rule 6.2B. Lastly, the rule change will amend various other related trading rotation rules.[9] Specifically, the Exchange is seeking to amend Rule 6.2, to provide that the Designated Primary Market-Maker (''DPM''), Lead Market-Maker (''LMM'') or Order Book Official (''OBO'') conducting a rotation for a particular class shall hold the opening promptly after the primary market for the underlying security disseminates the opening trade and/or the opening quote unless unusual circumstances exist.[10] The current rule provides that the rotation process should promptly follow the dissemination of the underlying market's opening trade or quote, whichever occurs first. These changes to Rule 6.2 are intended to parallel the changes proposed for Rule 6.2B HOSS rotations. Rule 6.2, as well as Rule 24.13, are also being revised to clarify that DPMs and LMMs have the discretion to determine the appropriate rotation order and manner if the appropriate procedure committee has not acted to establish any policy applicable to the particular class of options in question, or to deviate from a previously established rotation policy or procedure with the approval of two concurring Floor Officials.[11] This authority is currently explicit in the text of the two rules with respect to OBOs,[12] and the changes are intended to update the text in order to clarify that similar authority applies to a DPM or LMM in their respective appointed classes. Finally, Rules 6.2, 6.2A, 6.6 (*Unusual Market Conditions*) and 24.13 are also being revised to update cross references and to make various typographical changes to standardize the terminology used throughout the text.

2. Statutory Basis

CBOE believes the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5) of the Act,[14] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16] The proposed rule change will become operative 30 days after the date of the filing.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2006–35 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2006–35. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549–1090. Copies of such filing also will be available for inspection and copying at the principal office of the

[9] By way of background, CBOE has four options-related rotation rules: Rule 6.2 defines options trading rotations generally and describes procedures for modification of a rotation that are applicable to all options; Rule 24.13 sets forth particularized procedures relating to trading in index options; Rule 6.2A pertains to the Exchange's Rapid Opening System (''ROS''), which is an automated system for opening and reopening non-Hybrid classes; and Rule 6.2B, as discussed above, pertains to the Exchange's automated system for opening and reopening Hybrid classes.

[10] The ''unusual circumstances'' exception to the general procedure that the series of a class be opened promptly after the primary market opens is carried over from similar language in the Rule 6.2B HOSS rotation procedures. The inclusion of this language in Rule 6.2 is intended to acknowledge that, if unusual conditions or circumstances exist, openings conducted pursuant to that rule may be delayed in the interest of maintaining a fair and orderly market. An unusual circumstance might include, but is not limited to, a market order imbalance or system problems.

[11] For example, specific procedures for trading rotations are described in the Interpretations and Policies to Rules 6.2 and 24.13, as well as in Rules 6.2A and 6.2B.

[12] *See* Rules 6.2 and 24.13; *see also* Securities Exchange Act Release No. 35742 (May 19, 1995), 60 FR 28188 (May 30, 1995) (SR–CBOE–95–04) (order approving changes to certain trading rotation and opening procedures, including changes related to OBO discretion regarding the rotation order and manner).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2006–35 and should be submitted on or before January 24, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–22451 Filed 12–29–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54999; File No. SR–NYSE–2006–30]

Self-Regulatory Organizations; New York Stock Exchange, Inc. (a/k/a New York Stock Exchange LLC); Order Approving a Proposed Rule Change and Amendments No. 1 & 2 Thereto Relating to the Treasury Share Exception in NYSE Listed Company Manual Section 312.03, Section 312.04, Section 703.01(A), and Section 903.02

December 21, 2006.

I. Introduction

On May 5, 2006, the New York Stock Exchange LLC (the ''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the ''treasury share exception'' in NYSE Listed Company Manual Sections 312.03, 312.04, 703.01(A), and 903.02. On August 11, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.[3] On September 25, 2006, the Exchange filed Amendment No. 2 to the proposed rule change.[4] The proposed rule change, as amended, was published for comment in the **Federal Register** on October 16, 2006.[5] The Commission received one comment on the proposal.[6] This order approves the proposed rule change, as amended.

II. Description of the Proposal

Section 312.03 of the Exchange's Listed Company Manual requires that companies obtain shareholder approval before issuing stock in certain situations or in significantly large amounts.[7] Historically, the rule has not been applied to any issuance by a company of shares from the treasury, that is, a reissuance of shares once issued but then reacquired by the company. This practice gave rise to what has become known as the ''treasury share exception.'' The Exchange stated that the ''treasury shares exception'' results from the way the rule is written, making shareholder approval a ''prerequisite to listing.'' The Exchange has taken the view that once listed, shares remain listed even if they are repurchased by the company and taken back into ''treasury.'' Accordingly, when treasury shares are re-issued, the Exchange has not required that they be ''re-listed.'' Since no listing application is required, the Exchange has taken the position that Section 312.03 is not triggered.

Prior to 2003, the Exchange's rule requiring shareholder approval of stock option plans resided in Section 312.03 as well, and the Exchange also applied the treasury share exception in that context. The rule regarding such plans was significantly revised in 2003, and codified in a different section of the Listed Company Manual, Section 303A.08. At this time, the ''treasury share exception'' was specifically made unavailable for equity compensation plans, so that shareholder approval would be required regardless of whether a plan was funded in whole or in part through the use of treasury shares.[8]

In its proposed rule change, NYSE acknowledged that the treasury share exception has been criticized on the ground that it allows companies to store up large reserves of stock against a future issuance of shares in transactions that could significantly dilute existing shareholders without their approval. Accordingly, the Exchange filed a proposed rule change with the Commission to amend Section 312.03 to eliminate the treasury stock exception.[9] The Exchange has also modified Section 312.04(j) to clearly state that the issuance of shares from treasury is considered an issuance of shares for the purpose of Section 312.03.

The Exchange also proposed an amendment to Section 312.04 to state that the term ''market value'' means the official closing price on the Exchange as reported to the Consolidated Tape immediately preceding the entering into of a binding agreement to issue the securities. For example, if the transaction is entered into on a Tuesday after the close of the regular session at 4 p.m. Eastern Standard Time, then Tuesday's official closing price is used. If the transaction is entered into at any time between the close of the regular session on Monday and the close of the regular session on Tuesday, then Monday's official closing price is used.

The Exchange is also proposing to amend Section 312.03(b) to specify that it covers issuances that are part of a ''series of related transactions.'' This proposed change parallels the language used in Section 312.03(c) relating to the issuance of 20% or more of a company's voting common securities. The Exchange further proposes to amend Section 703.01(A) to require that companies issuing shares from treasury in a transaction or series of related transactions notify the Exchange in writing in advance of the issuance, indicating whether shareholder approval is required pursuant to Section 312.03 and, if required, the date such shareholder approval was obtained. The Exchange also proposes to amend

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[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the original filing in its entirety.

[4] *See* Partial Amendment No. 2 to Form 19b–4 dated September 25, 2006 (''Partial Amendment No. 2'').

[5] *See* Securities Exchange Act Release No. 54579 (October 5, 2006), 71 FR 60786 (''Notice'').

[6] *See* Letter to Nancy M. Morris, Secretary, Commission, from Alan P. Eggleston, Executive Vice President & General Counsel, Peter M. Finn, First Vice President, Regulatory Affairs, and Peter Cunningham, First Vice President, Investor Relations, Astoria Financial Corporation, dated October 11, 2006 (''Astoria Letter'').

[7] The section provides that shareholder approval is a ''prerequisite to listing'' additional shares by a listed company in several situations, including an issuance of: (1) more than 1% of the current outstanding common stock to an insider (an officer or director, or an entity affiliated with an officer or director); (2) more than 5% of the current outstanding to a 5% or greater shareholder or an affiliate thereof; (3) or more than 20% of the current outstanding in any transaction other than a public offering or ''bona fide private financing'' (as defined in Section 312.04(f)). Approval is also required when an issuance will result in a ''change of control of the issuer.'' These provisions apply in the same way to offerings of securities that are convertible into common stock, and the percentages in each case apply either to outstanding common equity or common voting power. Shareholder approval is also required for equity compensation plans. *See* NYSE Listed Company Manual Sections 312.03(a) and 303A.08.

[8] *See* Securities Exchange Act Release No. 48108 (June 30, 2003), 68 FR 39995, 40002 (July 3, 2003) (''Equity Compensation Plan Release'').

[9] The Exchange also proposed a transition period for companies that execute a binding contract with respect to the issuance of common stock prior to the date that is five business days after the date that the Commission noticed the proposed rule change in the **Federal Register**, so that the treasury share exception was available for such transactions even though the transactions do not close until after the date of Commission approval of this proposed rule change. *See* Partial Amendment No. 2, *supra* note 4. The proposal was published in the **Federal Register** on October 16, 2006. *See supra* note 5.

Sections 703.01(A) and 903.02 to require that companies indicate in the Subsequent Listing Application whether shareholder approval is required with respect to the issuance being listed pursuant to Sections 303A.08 or 312.03 and, if required, the date such shareholder approval was obtained.

III. Comments

The Commission received one comment letter on the proposed rule change.[10] Astoria Financial Corporation, an NYSE-listed company, stated that, ''concerns recently raised by certain shareholders and other market participants regarding the use of treasury shares to circumvent shareholder approval rules for transactions which result in a change of control have merit.'' However, Astoria thought that the proposal should provide some mechanism to exempt the issuance of treasury shares related to equity compensation plans previously approved by shareholders.

The Exchange responded to Astoria's comment letter.[11] NYSE explained that the treasury stock exception, currently available under Section 312.03, is not available with respect to equity compensation plans. Shareholder approval requirements for equity compensation plans are set forth in Section 303A.08 of the Listed Company Manual. Under that provision of the Listed Company Manual, the definition of the term ''equity compensation plan'' clearly states that the definition encompasses the delivery of either newly issued or treasury shares. As a result, the Exchange stated that the proposed elimination of the treasury stock exception under Section 312.03 does not impact equity compensation plans.

IV. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b) of the Act.[12] Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act[13] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between issuers.

The Commission believes that, with respect to NYSE-listed companies, the proposed rule change will reduce the potential for significant dilution without shareholder approval. The Commission believes that the necessity of shareholder approval of a transaction should be governed by the substantive nature of the transaction, not the status or type of shares used in the transaction. In this regard, the proposed rule change should promote greater shareholder input in control transactions and other corporate actions resulting in issuances of stock involving NYSE-listed companies. The proposed changes to Section 312.03 and 312.04 will also make these provisions consistent with the Exchange's elimination of the treasury share exception from the Exchange's equity compensation plan approval rules.[14]

With respect to the proposed change in Section 312.03(b), to clarify that the rule covers issuances that are part of a ''a series of related transactions, the Commission believes this change is beneficial as it is designed to ensure that the overall substance of a transaction or series of transactions indicates the necessity of shareholder approval. In particular, the Commission believes that this change ensures that companies cannot avoid the shareholder approval requirements by simply issuing stock in a piecemeal fashion to avoid the requirements of the rule and makes Section 312.03(b) consistent with the requirements of Section 312.03(c). With respect to the proposed changes in Sections 703.01(A) and 903.02, which, in general, require that listed companies notify the Exchange in writing in advance of an issuance, state whether shareholder approval is required and, if so, when it was obtained, and indicate such information in any Subsequent Listing Application, the Commission believes these changes are reasonable as they will facilitate the Exchange's monitoring of listed companies for compliance with the revised shareholder approval rules. The Commission also believes that the Exchange's clarification of the term ''market value'' is consistent the protection of investors as it ensures that the most recent closing price, and not an average price, is used in situations where reference is made to the market value of an issuer's securities. This change should provide certainty as to what price is being used when determining market value. Finally, the Exchange has provided for a transition period for companies that execute a binding contract with respect to the issuance of common stock prior to the date that is five business days after the date that the Commission noticed the proposed rule change in the **Federal Register**. The Commission believes that this transition period is a reasonable way to provide listed companies with guidance as to on-going transactions and sufficient notice of the proposed rule change.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–NYSE–2006–30), as amended by Amendment Nos. 1 and 2, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E6–22446 Filed 12–29–06; 8:45 am]

BILLING CODE 8011–01–P

[10] Astoria Letter, *supra* note 6.

[11] *See* Letter to Nancy M. Morris, Secretary, Commission, from Mary Yeager, Assistant Secretary, NYSE, dated December 4, 2006 (''NYSE Response Letter'').

[12] 15 U.S.C. 78f(b). In approving this proposal, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78f(b)(5).

[14] *See* Equity Compensation Plan Release, *supra* note 8. With respect to the sole commenter on the proposed rule change, the Commission agrees with the Exchange that the treasury share exception being eliminated by the NYSE's proposed changes in Section 312.03 is currently not available with respect to shareholder approval of equity compensation plans as set forth in Section 303A.08. As the Exchange's response notes, the existing definition of ''equity compensation plan'' in Section 303A.08 encompasses the delivery of either newly issued or treasury shares. As a result, the proposed elimination of the treasury stock exception does not have any effect on the shareholder approval requirements for equity compensation plans.

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54985; File No. SR–NYSE–2006–113]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Moratorium on the Qualification and Registration of New Registered Competitive Market Makers and New Competitive Traders, Governed by Rules 107A and 110, Respectively, for an Additional Six Months

December 21, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 13, 2006, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange.[3] The Exchange has designated the proposed rule change as constituting a ''non-controversial'' rule change under Section 19(b)(3)(A)(iii) of the Act,[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to extend for six months the moratorium related to the qualification and registration of Registered Competitive Market Makers (''RCMMs'') pursuant to Exchange Rule 107A and Competitive Traders (''CTs'') pursuant to Exchange Rule 110. The text of the proposed rule change is available on the NYSE's Web site (*http://www.nyse.com*), at the NYSE's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend for six months the current moratorium related to the qualification and registration of RCMMs pursuant to Exchange Rule 107A and CTs pursuant to Exchange Rule 110.

On September 22, 2005, the Exchange filed SR–2005–63[6] (''Filing 2005–63'') with the Commission proposing to implement a moratorium on the qualification and registration of new RCMMS and CTs in order to allow the Exchange an opportunity to review the viability of RCMMs and CTs in the NYSE HYBRID MARKET℠ (''Hybrid Market'').[7]

Subsequent to the submission of Filing 2005–63, the Exchange filed SR–NYSE–2006–11[8] (''Filing 2006–11'') proposing to modify the moratorium and grant RCMM firms the ability to replace a RCMM who relinquishes his or her registration and ceases to conduct business as a RCMM during the moratorium, with a newly qualified and registered RCMM. The moratorium does not restrict RCMMs from joining any RCMM firm or becoming or remaining an independent RCMM. Neither does the moratorium restrict any RCMM firm from hiring any existing RCMMs.

Subsequently, the Exchange extended the moratorium, as amended, in order to allow the Exchange to continue its review during the phasing in of the Hybrid Market for an additional six months until on or about December 31, 2006.[9]

The Exchange now proposes to extend the moratorium, as amended, for an additional six months in order to include in its review, data from the full operation of the Hybrid Market with respect to RCMMs and CTs that can only be obtained when the remainder of the third phase and the fourth phase of the Hybrid Market are implemented in the beginning of 2007. This data will allow the Exchange to make a more informed decision as to the viability of RCMMs and CTs in the Hybrid Market. As such, the Exchange believes an additional six-month extension of the moratorium is necessary.

The Exchange will issue an Information Memo announcing the extension of the moratorium. The review is currently estimated to be completed on or about June 29, 2007.

2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[10] that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The moratorium gives the Exchange time to fully study the future viability of RCMMs and CTs in order to improve the market. The proposed rule change is a six month extension of the RCMM and CT moratorium implemented in Filing 2005–63 and modified in Filing 2006–11.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Certain technical corrections were made throughout the discussion of the proposed rule change pursuant to a conversation with NYSE staff. Telephone conversation between Jean Walsh, Principal Rule Counsel, NYSE, and Sara Gillis, Attorney, Division of Market Regulation, Commission, on December 18, 2006.

[4] 15 U.S.C. 78s(b)(3)(A)(iii).

[5] 17 CFR 240.19b–4(f)(6).

[6] *See* Securities Exchange Act Release No. 52648 (October 21, 2005), 70 FR 62155 (October 28, 2005) (SR–NYSE–2005–63).

[7] *See* Securities Exchange Act Release No. 53539 (March 22, 2006), 71 FR 16353 (March 31, 2006) (SR–NYSE–2004–05).

[8] *See* Securities Exchange Act Release No. 53549 (March 24, 2006), 71 FR 16388 (March 31, 2006) (SR–NYSE–2006–11).

[9] *See* Securities Exchange Act Release No. 54140 (July 13, 2006), 71 FR 41491 (July 21, 2006) (SR–NYSE–2006–48).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). Pursuant to Rule 19b–4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change,

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [13] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [14] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The NYSE has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the moratorium to continue without interruption so that the Exchange may have additional time to fully study the future viability of RCMMs and CTs in the Hybrid Market. For these reasons, the Commission designates that the proposed rule change become operative immediately.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2006–113 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2006–113. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2006–113 and should be submitted on or before January 24, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–22448 Filed 12–29–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55004; File No. SR–NYSEArca–2006–33]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Trade the iShares® S&P Europe 350 Index Fund Pursuant to Unlisted Trading Privileges

December 22, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 18, 2006, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, through its wholly-owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities''), proposes to trade shares (''Shares'') of the iShares S&P Europe 350 Index Fund (''Fund'') (Symbol: IEV) pursuant to unlisted trading privileges (''UTP'') based on NYSE Arca Equities Rule 5.2(j)(3).

The text of the proposed rule change is available on the Exchange's Web site (*http://www.nysearca.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to trade the Shares pursuant to UTP. The Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the Standard & Poor's Europe 350 Index (''Index''). The Index measures the performance of the stocks of leading companies in the following countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. The market capitalization of constituent companies is adjusted to reflect only those stocks

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at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has requested that the Commission waive the 5-day pre-filing notice requirement. The Commission has determined to waive this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

that are available to foreign investors. The stocks in the Index are chosen for market size, liquidity, industry group representation, and geographic diversity. The Fund uses a representative sampling strategy to try to track the Index.

The Commission previously approved the original listing and trading of the Fund on the American Stock Exchange, LLC (''Amex'').[3] The Fund was subsequently listed on the New York Stock Exchange (''NYSE'').[4] The Exchange deems Shares of the Fund to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The trading hours for the Shares on the Exchange would be the same as those set forth in NYSE Arca Equities Rule 7.34, except that the Shares would not trade during the Opening Session (4 a.m. to 9:30 a.m. Eastern Time) unless the Indicative Optimized Portfolio Value (''IOPV'') is calculated and disseminated during that time.

Quotations for and last sale information regarding the Shares are disseminated through the Consolidated Quotation System. NYSE disseminates, every 15 seconds during regular NYSE trading hours of 9:30 a.m. to 4:15 p.m. (Eastern Time), the value of the underlying Index and this information is widely disseminated by quotation vendors. NYSE also disseminates, every 15 seconds during regular NYSE trading hours, an IOPV for the Fund calculated by a securities information provider and this information is widely disseminated by market data vendors. The net asset value (''NAV'') of the Fund, however, is calculated only once a day. Therefore, the IOPV may not reflect the value of all securities included in the Index and thus may not reflect the precise composition of the current portfolio of securities held by the Fund at a particular moment. The IOPV is intended to closely approximate the value per share of the portfolio of securities for the Fund and provide for a close proxy of the NAV at a greater frequency for investors.

The Fund includes companies trading in markets with trading hours overlapping regular NYSE trading hours. For this Fund, the IOPV calculator updates the IOPV during the overlap period every 15 seconds to reflect price changes of the Index components in the principal foreign market and converts such prices into U.S. dollars based on the current currency exchange rate. When the foreign market or markets are closed but NYSE is open for trading, the IOPV is updated every 15 seconds of the Index components to reflect changes in currency exchange rates.

The Commission has granted the Fund an exemption from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 (''1940 Act'').[5] Any product description used in reliance on the Section 24(d) exemptive order will comply with all representations made and all conditions contained in the Fund's application for orders under the 1940 Act.[6]

In connection with the trading of the Shares, the Exchange would inform ETP Holders in an Information Circular of the special characteristics and risks associated with trading the Shares, including how Fund Shares are created and redeemed, the prospectus or product description delivery requirements applicable to the Shares, applicable Exchange rules, how information about the value of the underlying Index is disseminated, and trading information.

In addition, before an ETP Holder recommends a transaction in the Shares, the ETP Holder must determine the Fund is suitable for the customer, as required by NYSE Arca Equities Rule 9.2(a)–(b).

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products to monitor trading in the Shares. The Exchange represents that these procedures are adequate to monitor Exchange trading of the Shares.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[7] in general and Section 6(b)(5) of the Act[8] in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments and perfect the mechanisms of a free and open market and to protect investors and the public interest. In addition, the Exchange believes that the proposed rule change is consistent with Rule 12f–5 under the Act[9] because it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2006–33 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2006–33. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be

[3] *See* Securities Exchange Act Release No. 42786 (May 15, 2000), 65 FR 33586 (May 24, 2000) (SR–Amex–99–49).

[4] *See* Securities Exchange Act Release No. 52761 (November 10, 2005), 70 FR 70010 (November 18, 2005) (SR–NYSE–2005–76).

[5] 15 U.S.C. 80a–24(d).

[6] *See In the Matter of iShares, Inc., et al.*, Investment Company Act Release No. 25623 (June 25, 2002).

[7] 15 U.S.C. 78s(b).

[8] 15 U.S.C. 78s(b)(5).

[9] 17 CFR 240.12f–5.

available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2006–33 and should be submitted on or before January 23, 2007.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[10] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[11] which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest. The Commission believes that this proposal should benefit investors by increasing competition among markets that trade the Shares.

In addition, the Commission finds that the proposal is consistent with Section 12(f) of the Act,[12] which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.[13] The Commission notes that it previously approved the listing and trading of the Shares on Amex and subsequently on NYSE.[14] The Commission also finds that the proposal is consistent with Rule 12f–5 under the Act,[15] which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP. The Exchange has represented that it meets this requirement because it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[16] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotations for and last sale information regarding the Shares are disseminated through the Consolidated Quotation System. Furthermore, the IOPV calculator updates the IOPV for the Fund every 15 seconds to reflect price changes of the Index components in the principal foreign markets, and converts such prices into U.S. dollars based on the current currency exchange rate. When the foreign market or markets are closed but NYSE is open for trading, the IOPV will be updated every 15 seconds to reflect changes in currency exchange rates. Furthermore, NYSE Arca Equities Rule 7.34 describes the circumstances where the Exchange would halt trading when the IOPV or the value of the underlying Index is not calculated or widely available.

The Commission notes that, if the Shares should be delisted by the listing exchange, the Exchange would no longer have authority to trade the Shares pursuant to this order.

In support of this proposal, the Exchange has made the following representations:

1. The Exchange's surveillance procedures are adequate to monitor the trading of the Shares.

2. In connection with the trading of the Shares, the Exchange would inform ETP Holders in an Information Circular of the special characteristics and risks associated with trading the Shares.

3. The Information Circular would inform participants of the prospectus or product delivery requirements applicable to the Shares.

This approval order is conditioned on the Exchange's adherence to these representations.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted previously, the Commission previously found that the listing and trading of the Shares on Amex and subsequently on NYSE is consistent with the Act. The Commission presently is not aware of any regulatory issue that should cause it to revisit that earlier finding or preclude the trading of the Shares on the Exchange pursuant to UTP. Therefore, accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for the Shares.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–NYSEArca–2006–33) is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–22445 Filed 12–29–06; 8:45 am]

BILLING CODE 8011–01–P

[10] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78l(f).

[13] Section 12(a) of the Act, 15 U.S.C. 78l(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to Section 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange ''extends UTP.'' When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

[14] *See supra* notes 3 and 4.

[15] 17 CFR 240.12f–5.

[16] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Emergency Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with P.L. 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection package that is included in this notice is for an emergency approval request for use of an existing OMB-approved form.

SSA is soliciting comments on the accuracy of the Agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974. (SSA) Social Security Administration, DCBFM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400.

The information collection listed directly below has been submitted to OMB for Emergency Clearance. SSA is requesting Emergency Clearance from OMB on the date this Notice is published. Please note however, that we will begin a regular clearance period for the collection almost immediately following emergency clearance, so your comments are still necessary and welcome. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

SSA Guidance for Use of the Tax Information Authorization Form—0960–NEW. The Internal Revenue Service (IRS) Form 8821 is used by taxpayers to authorize the release of tax information to a third party. The IRS agrees that a properly completed IRS Form 8821 is an appropriate means of designating the Department of Health and Human Services (HHS) to receive the tax information of a Medicare Part B beneficiary who has appealed a determination of Income-Related Monthly Adjustment Amount (IRMAA). Specifically, Medicare Part B beneficiaries who wish to appeal SSA's reconsideration of their IRMAA amounts will be sent a copy of the HA–501 (Request for Hearing by an Administrative Law Judge) and with it the IRS Form 8821, which will enable beneficiaries to authorize disclosure of their relevant beneficiary tax data to HHS for use in conducting the appeals hearing. The respondents are Medicare Part B beneficiaries who want to request an appeal of their IRMAA amount.

Type of Request: Request for emergency approval for use of an existing OMB-approved information collection.

Number of Respondents: 6,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 1,500 hours.

Dated: December 27, 2006.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. E6–22518 Filed 12–29–06; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Release Certain Properties From All Terms, Conditions, Reservations, and Restrictions of a Quitclaim Deed Agreement Between the Sarasota Manatee Airport Authority and the Federal Aviation Administration for the Sarasota Bradenton International Airport, Sarasota, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The FAA hereby provides notice of intent to release certain airport properties 3.795 acres at the Sarasota Bradenton International Airport, Sarasota, FL from the conditions, reservations, and restrictions as contained in a Quitclaim Deed agreement between the FAA and the Sarasota Manatee Airport Authority, dated March 18, 1947. The release of property will allow the Sarasota Manatee Airport Authority to dispose of the property for other than aeronautical purposes. The property is located in the land lying and being in the northwest ¼ of section 1, township 36 south, range 17 east, Sarasota County, Florida, being more particularly described as follows:

• The parcel is currently designated as non-aeronautical use. The property will be disposed of for the purpose of constructing an administration/mixed use building to contain administrative offices, classrooms, and seminar rooms; and to construct a gymnasium.

• The fair market value of the property has been determined by appraisal to be $4,140,000. The airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project or in operating and maintenance of the airport.

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Sarasota Manatee Airport Authority Offices and the FAA Airports District Office.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

DATES: February 1, 2007.

ADDRESSES: Documents are available for review at the Sarasota Manatee Airport Authority Office, 6000 Airport Circle, Sarasota, Florida 34243, and the FAA Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Krystal Hudson, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

FOR FURTHER INFORMATION CONTACT: Krystal Hudson, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

W. Dean Stringer,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 06–9933 Filed 12–29–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 11, 2006, vol. 71, no. 155, page 46253. This action responds to the Wendall H. Ford Investment and Reform Act for the 21st Century by requiring that all persons who remove any life-limited aircraft part have a method to prevent the installation of that part after it has reached its life limit.

DATES: Please submit comments by February 2, 2007.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Safe Disposition of Life-Limited Aircraft Parts.

Type of Request: Extension without change of a currently approved collection.

OMB Control Number: 2120–0665.

Form(s): There are no forms associated with this collection.

Affected Public: An estimated 8,000 respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 6.5 hours per response.

Estimated Annual Burden Hours: An estimated 52,000 hours annually.

Abstract: This action responds to the Wendall H. Ford Investment and Reform Act for the 21st Century by requiring that all persons who remove any life-limited aircraft part have a method to prevent the installation of that part after it has reached its life limit. This action reduces the risk of life-limited parts being used beyond their life limits. This action would also require that manufacturers of life-limited parts provide marking instructions, when requested.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Dated: Issued in Washington, DC, on December 20, 2006.

Carla Mauney,

FAA Information Collection Clearance Officer, Strategy and Investment Analysis Division, AIO–20.

[FR Doc. 06–9936 Filed 12–29–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of an Environmental Assessment (EA) and Finding of No Significant Impact/ Record of Decision (FONSI/ROD) Executed by the Michigan Department of Transportation—Bureau of Aeronautics and Freight Services (MDOT) and the Federal Aviation Administration (FAA) for the Evaluation of Environmental Impacts Associated With Proposed Airport Improvements for the Jackson County Airport, Located in Jackson, MI

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of availability of an EA and FONSI/ROD executed by MDOT and the FAA for the evaluation of environmental impacts associated with proposed airport improvements for the Jackson County Airport located in Jackson, Michigan.

SUMMARY: The FAA is making available an EA and FONSI/ROD for the evaluation of environmental impacts associated with proposed improvements to the Jackson County Airport located in Jackson, Michigan. The proposed improvements include the relocation of Runway 6/24 and the shift and extension of Runway 14/32.

*Point of Contact***:** Mr. Brad Davidson, Environmental Protection Specialist, FAA Great Lakes Region, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, MI 48174, (734) 229–2900.

SUPPLEMENTARY INFORMATION: The FAA is making available an EA and FONSI/ROD for the evaluation of environmental impacts associated with proposed airport improvements, executed by MDOT and the FAA, for the Jackson County Airport located in Jackson, Michigan. The purpose of the EA and FONSI/ROD was to evaluate potential environmental impacts arising from the proposed airport improvement project involving the relocation of Runway 06/24 and a shift and extension to Runway 14/32.

These documents will be available during normal business hours at the following location: FAA Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, MI 48174.

Due to current security requirements, arrangements must be made with the point of contact prior to visiting this office.

Issued in Detroit, Michigan, December 13, 2006.

Irene R. Porter,

Manager, Detroit Airport District Office, FAA, Great Lakes Region.

[FR Doc. 06–9941 Filed 12–29–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 202: Portable Electronic Devices

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 202 Meeting: Portable Electronic Devices.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 202: Portable Electronic Devices.

DATES: The meeting will be held on January 23–25, 2007, from 9 a.m. to 4:30 p.m. (unless stated otherwise).

ADDRESSES: The meeting will be held at Conference Rooms, 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805. Washington, DC 20036–5133; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org*.

Primary Purpose of Meeting: The plenary is to review initial draft materials for the Recommended Guidance for Airplane Design and Certification document, and further complete the document. The committee will also consider how best to coordinate and implement it's recommendations to the FCC on spurious emissions regulation revisions. Working group sessions are on Tuesday and Thursday afternoon. Plenary Sessions are Wednesday and Thursday.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 22 Portable Electronic Devices meeting. The agenda will include:

- January 23:
- Chairmen's Strategy Session—Colson Board Room.
- Progress and Status Update, Overall Review of Plan and Schedule for Document Completion.
- Working Group 5 Kickoff and Coordination.
- Aircraft Design and Certification Working Groups & Focus Groups Sessions.

• Sub Group on PED Statistical Analysis and Characterization—Garmin Room.
• Sub Group on IPL Test—Small Conference Room—Small Conference Room.
• Overall Group on Certification Process and Documentation—Colson Board Room.
• FCC Recommendations Focus Group—ARINC Conference Room.
• Chairmen's Strategy Session.
• Coordinate Recommendations to Plenary: Plan and Schedule for Remaining Committee Work.
• January 24 and 25:
• Opening Plenary Session (Welcome and Introductory Remarks, Review Agenda, Review/Approve previous Common Plenary Summary).
• Sub Group on IPl Test—Small Conference Room—Small Conference Room.
• Overall Group on Certification Process and Documentation—Colson Board Room.
• FCC Recommendations Focus Group—ARINC Conference Room.
• January 25:
• Chairmen's Day 2 Opening Remarks and Process Check.
• Final Overall Working Group Report.
• Identification and Plan for Closure of Open Issues.
• Phase 2 Work Remaining: Work Plan and Schedule for Completion of DO–YYY.
• Recommendation on need for Additional Working Group or Plenary Meeting(s).
• Working Group 5 (Overall Certification Process, Documentation).
• FCC Recommendations Focus Group (Reporting on Plan for Completion of Recommendations, Coordination and Implementation).
• Plenary Consensus on Plans to:
• Complete DO–YYY Recommended Guidance for Airplane Design and Certification.
• Coordinate and Implement Recommendations to FCC.
• Plenary Consensus on Need and Schedule for Additional SC–202 Meeting(s), Plenary and/or Working Group(s) to complete work on DO–YYY Document and Recommendations to FCC.
• Closing Session (Other Business, Date and Place of Upcoming Meetings (April 17–19, 2007 Eighteenth Plenary at RTCA, July 23–27, 2007 Nineteenth Plenary at RTCA).
• Adjourn to Break-out sessions for Working Groups if required and time permits.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC on December 21, 2006.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 06–9935 Filed 12–29–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORATION

Federal Aviation Administration

Consensus Standards, Light-Sport Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: This notice announces the availability of two new consensus standards and revisions to certain previously accepted consensus standards relating to the provisions of the Sport Pilot and Light-Sport Aircraft rule issued July 16, 2004, and effective September 1, 2004. ASTM International Committe F37 on Light Sport Aircraft developed the new and revised standards with Federal Aviation Administration (FAA) participation. By this Notice, the FAA finds the new and revised standards acceptable for certification of the specified aircraft under the provisions of the Sport Pilot and Light-Sport Aircraft rule.

DATES: Comments must be received on or before March 5, 2007.

ADDRESSES: Comments may be mailed to: Federal Aviation Administration, Small Airplane Directorate, Programs and Procedures Branch, ACE–114, Attention: Larry Werth, Room 301, 901 Locust, Kansas City, Missouri 64106. Comments may also be e-mailed to: *Comments-on-LSA-Standard@faa.gov.* All comments must be marked: Consensus Standards Comments, and must specify the standard being addressed by ASTM designation and title.

FOR FURTHER INFORMATION CONTACT: Larry Werth, Light-Sport Aircraft Program Manager, Programs and Procedures Branch (ACE–114), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4147; e-mail: *larry.werth@faa.gov.*

SUPPLEMENTARY INFORMATION: This notice announces the availability of two new consensus standards and revisions to certain previously accepted consensus standards relating to the provisions of the Sport Pilot and Light-Sport Aircraft rule. ASTM International Committee F37 on Light Sport Aircraft developed the new and revised standards.

Comments Invited: Interested persons are invited to submit such written data, views, or arguments, as they may desire. Communications should identify the consensus standard number and be submitted to the address specified above. All communications received on or before the closing date for comments will be forwarded to ASTM International Committee F37 for consideration. The standard may be changed in light of the comments received. The FAA will address all comments received during the recurring review of the consensus standard and will participate in the consensus standard revision process.

Background: Under the provisions of the Sport Pilot and Light-Sport Aircraft rule, and revised Office of Management and Budget (OMB) Circular A–119, ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities'', dated February 10, 1998, industry and the FAA have been working with ASTM International to develop consensus standards for light-sport aircraft. These consensus standards satisfy the FAA's goal for airworthiness certification and a verifiable minimum safety level for light-sport aircraft. Instead of developing airworthiness standards through the rulemaking process, the FAA participates as a member of Committee F37 in developing these standards. The use of the consensus standard process assures government and industry discussion and agreement on appropriate standards for the required level of safety.

Comments on Previous Notices of Availability

In the Notice of Availability (NOA) issued on December 29, 2005, and published in the **Federal Register** on January 12, 2006, the FAA asked for public comments on the new and revised consensus standards accepted by that NOA. The comment period closed on March 13, 2006. The preamble to the Sport Pilot and Light-Sport Aircraft Rule states,

''If comments from the public are received as a result of the Notice of Availability, the FAA will address them during its recurring review of the consensus standards and participation in the consensus standards revision process.''

And—

''The FAA will respond to comments on the consensus standard in this revision process.''

ASTM International Committee F37 examined the public comments received on these new and revised standards and determined the comments did not warrant or justify any changes or revisions to the standards.

Consensus Standards in This Notice of Availability

The FAA has reviewed the standards presented in this NOA for compliance with the regulatory requirements of the rule. Any light-sport aircraft issued a special light-sport airworthiness certificate, which has been designed, manufactured, operated and maintained, in accordance with this and previously accepted ASTM consensus standards provides the public with the appropriate level of safety established under the regulations. Manufacturers who choose to produce these aircraft and certificate these aircraft under 14 CFR part 21, §§ 21.190 or 21.191 are subject to the applicable consensus standard requirements. The FAA maintains a listing of all accepted standards on the FAA Web site.

The Revised Consensus Standards and Effective Period of Use

The following previously accepted consensus standards have been revised, and this NOA is accepting the later revisions. Either the previous revisions or the later revisions may be used for the initial certification of special light-sport aircraft until July 1, 2007. This overlapping period of time will allow aircraft that have started the initial certification process using the previous revision levels to complete that process. After July 1, 2007, manufacturers must use the later revisions and must identify these later revisions in the Statement of Compliance for initial certification of special light-sport aircraft unless the FAA publishes a specific notification otherwise. The following Consensus Standards may not be used after July 1, 2007:

a. ASTM Designation F 2245–04, titled: Standard Specification for Design and Performance of a Light Sport Airplane.

b. ASTM Designation F 2279–03, titled: Standard Practice for Quality Assurance in the Manufacture of Light Sport Airplanes.

c. ASTM Designation F 2295–03, titled: Standard Practice for Continued Operational Safety Monitoring of a Light Sport Airplane.

d. ASTM Designation F 2316–03, titled: Standard Specification for Airframe Emergency Parachutes for Light Sport Aircraft.

e. ASTM Designation F 2339–05, titled: Standard Practice for Design and Manufacture of Reciprocating Spark Ignition Engines for Light Sport Aircraft.

f. ASTM Designation F 2415–05, titled: Standard Practice for Continued Airworthiness System for Light Sport Gryoplane Aircraft.

The Consensus Standards

The FAA finds the following new and revised consensus standards acceptable for certification of the specified aircraft under the provisions of the Sport Pilot and Light-Sport Aircraft rule. The consensus standards listed below may be used unless the FAA publishes a specific notification otherwise.

a. ASTM Designation F 2245–06, titled: Standard Specification for Design and Performance of a Light Sport Airplane.

b. ASTM Designation F 2279–06, titled: Standard Practice for Quality Assurance in the Manufacture of Fixed Wing Light Sport Aircraft.

c. ASTM Designation F 2295–06, titled: Standard Practice for Continued Operational Safety Monitoring of a Light Sport Aircraft.

d. ASTM Designation F 2316–06, titled: Standard Specification for Airframe Emergency Parachutes for Light Sport Aircraft.

e. ASTM Designation F 2339–06, titled: Standard Practice for Design and Manufacture of Reciprocating Spark Ignition for Light Sport Aircraft.

f. ASTM Designation F 2415–06, titled: Standard Practice for Continued Airworthiness System for Light Sport Gryoplane Aircraft.

g. ASTM Designation F 2563–06, titled: Standard Practice for Kit Assembly Instructions of Aircraft Intended Primarily for Recreation.

h. ASTM Designation F 2564–06, titled: Standard Specification for Design and Performance of a Light Sport Glider.

Availability

These consensus standards are copyrighted by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428–2959. Individual reprints of this standard (single or multiple copies, or special compilations and other related technical information) may be obtained by contacting ASTM at this address, or at (610) 832–9585 (phone), (610) 832–9555 (fax), through *service@astm.org* (e-mail), or through the ASTM Web site at *http://www.astm.org*. To inquire about standard content and/or membership or about ASTM International Offices abroad, contact Daniel Schultz, Staff Manager for Committee F37 on Light Sport Aircraft: (610) 832–9716. *dschultz@astm.org*.

Issued in Kansas City, Missouri on December 19, 2006.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–9934 Filed 12–29–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Indiana

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other Federal agencies.

SUMMARY: This notice announces action taken by the FHWA and Other Federal Agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, U.S. 31 Plymouth to South Bend, Indiana, in the Counties of Marshall and St. Joseph, State of Indiana. This action is the Record of Decision issued by FHWA for the U.S. 31 Plymouth to South Bend Project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before July 2, 2007. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence Heil, P.E., Air Quality/Environmental Specialist, Federal Highway Administration, Indiana Division, 575 North Pennsylvania Street, Room 254, 46204; telephone: (317) 226–7480; e-mail: *Larry.Heil@fhwa.dot.gov*. You may also contact Mr. Jonathan Wallace, Project Manager, Indiana Department of Transportation, 100 North Senate Avenue, Room N801, Indianapolis,

Indiana, 46204; telephone: (317) 233–3520; e-mail: *JonWallace@indot.IN.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has taken final agency action subject to 23 U.S.C. 139(l)(1) by approving the Record of Decision for the following highway project in the State of Indiana: U.S. 31 Plymouth to South Bend, in Marshall and St. Joseph Counties. The project provides for upgrading existing U.S. 31 between U.S. 30 and U.S. 20 (approximately 20 miles) to a fully access controlled, grade-separated freeway. The proposed freeway will be on both new and existing alignment. The FHWA project reference number is Des. No. 9405230. The actions by FHWA are described in the Final Environmental Impact Statement (FEIS) for the project, approved on April 3, 2006 and in the FHWA Record of Decision (ROD) issued on June 26, 2006, and in other documents in the project record. The FEIS, ROD, and other documents in the FHWA project file are available by contacting the FHWA or the Indiana Department of Transportation at the addresses provided above. The FEIS and ROD can be viewed and downloaded from the project Web site at *http://www.us31study.org* or viewed at public libraries in the project area.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. Air: Clean Air Act, 42 U.S.C. 7401–7671(q).

3. Land: Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601–4604; Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers), [23 U.S.C. 319]; National Forest Management Act (NFMA) of 1976 [16 U.S.C. 1600–1614].

4. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. Wetlands and Water Resources: Safe Drinking Water Act (SDWA), 42 U.S.C. 300(f)–300(j)(6); Rivers and Harbors Act of 1899, 33 U.S.C. 401–406; Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287; Emergency Wetlands Resources Act, 16 U.S.C. 3921, 3931; TEA–21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m), 133(b)(11); Flood Disaster Protection Act, 42 U.S.C. 4001–4128.

8. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: December 18, 2006.

Robert F. Tally Jr.,

Division Administrator, Indianapolis, Indiana.

[FR Doc. E6–22452 Filed 12–29–06; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–25246]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 32 individuals for exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the Federal vision standard.

DATES: Comments must be received on or before February 2, 2007.

ADDRESSES: You may submit comments identified by Department of Transportation (DOT) Docket Management System (DMS) Docket Number FMCSA–2006–25246 using any of the following methods:

- Web Site: *http://dmses.dot.gov/submit.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the Agency name and docket number for this Notice. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The DMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477; Apr. 11, 2000). This information is also available at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical

Qualifications Division, (202) 366–4001, *maggi.gunnels@dot.gov,* FMCSA, Department of Transportation, 400 Seventh Street, SW., Room 8301, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 32 individuals listed in this Notice each have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Kreis C. Baldridge

Mr. Baldridge, age 53, has a macular scar in his right eye due to an injury sustained over 20 years ago. The best corrected visual acuity in his right eye is 20/200 and in the left, 20/20. Following an examination in 2006, his optometrist noted, ''In my opinion, Mr. Baldridge has sufficient vision to perform commercial driving tasks.'' Mr. Baldridge reported that he has driven buses for 14 years, accumulating 462,000 miles. He holds a Class D operator's license from Tennessee. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James L. Baynes

Mr. Baynes, 66, has loss of vision in his right eye due to a traumatic injury sustained during childhood. The best corrected visual acuity in his right eye is count-finger vision and in the left, 20/20. Following an examination in 2006, his optometrist noted, ''This is a stable condition and in my opinion, Mr. Baynes has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Baynes reported that he has driven straight trucks for 47 years, accumulating 188,000 miles, and tractor-trailer combinations for 21 years, accumulating 1.1 million miles. He holds a Class A Commercial Driving License (CDL) from Tennessee. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV, failure to obey a traffic signal.

Daniel H. Bungartz

Mr. Bungartz, 57, has had optic nerve atrophy and corneal scarring in his right eye since birth. The best corrected visual acuity in his right eye is light perception and in the left, 20/15. Following an examination in 2006, his optometrist noted, ''From examination of Mr. Bungartz, it is my medical opinion that he has sufficient visual field and acuity to operate a commercial vehicle.'' Mr. Bungartz reported that he has driven straight trucks for 13 years, accumulating 624,000 miles, and tractor-trailer combinations for 20 years, accumulating 600,000 miles. He holds a Class A CDL from Wisconsin. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Thomas L. Carter

Mr. Carter, 56, has loss of vision in his left eye due to corneal scarring caused by a traumatic injury sustained in 1986. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/400. Following an examination in 2006, his optometrist noted, ''It is my professional opinion that Mr. Carter has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Carter reported that he has driven straight trucks for 38 years, accumulating 1 million miles. He holds a Class A CDL from Oklahoma. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Orlando Colon

Mr. Colon, 47, has complete loss of vision in his right eye due to a traumatic injury sustained during childhood. The best corrected visual acuity in his left eye is 20/20. Following an examination in 2006, his optometrist noted, ''It is my medical opinion that Mr. Colon has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Colon reported that he has driven straight trucks for 17 years, accumulating 110,500 miles. He holds a Class B CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Donald D. Daniels

Mr. Daniels, 45, has ocular histoplasmosis syndrome in both eyes. The visual acuity in his right eye is 20/200 and in the left, 20/20. Following an examination in 2006, his optometrist noted, ''Mr. Daniels has operated a commercial vehicle for more than 20 years without incident. In my opinion, he has adequate vision to continue to operate a vehicle safely.'' Mr. Daniels reported that he has driven straight trucks for 10 years, accumulating 600,000 miles, and tractor-trailer combinations for 3 years, accumulating 216,000 miles. He holds a Class A CDL from Mississippi. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jimmy W. Deadwyler

Mr. Deadwyler, 50, has a corneal scar in his right eye due to a laceration injury sustained as a child. The best corrected visual acuity in his right eye is 20/400 and in the left, 20/25. Following an examination in 2006, his ophthalmologist noted, ''After comprehensive examination, it is my professional opinion that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Daniels reported that he has driven straight trucks for 28 years, accumulating 1 million miles. He holds a Class B CDL from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

William E. Dolson

Mr. Dolson, 68, has a prosthetic right eye due to an injury sustained during childhood. The best corrected visual acuity in his left eye is 20/20. Following an examination in 2006, his optometrist noted, ''In my opinion, Mr. Dolson has sufficient functional vision for safe operation of a commercial motor vehicle.'' Mr. Dolson reported that he has driven tractor-trailer combinations for 44 years, accumulating 3.6 million miles. He holds a Class A CDL from Delaware. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV. He exceeded the speed limit by 18 mph.

Michael A. Fouch

Mr. Fouch, 47, has had amblyopia in his left eye since birth. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/400. Following an examination in 2006, his optometrist noted, ''Based on his excellent past driving history, and our findings of his recent eye examinations, I feel that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Fouch reported that he has driven straight trucks for 25 years, accumulating 250,000 miles. He holds a Class B CDL from New Jersey. His

driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Paul R. Kerpsie

Mr. Kerpsie, 56, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/50. Following an examination in 2006, his optometrist noted, ''Mr. Kerpsie has successfully driven a commercial vehicle for many years. I feel he has sufficient vision to operate a commercial vehicle.'' Mr. Kerpsie reported that he has driven straight trucks for 29 years, accumulating 255,200 miles. He holds a Class C operator's license from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Gerald D. Larson

Mr. Larson, 34, has loss of vision in his right eye due to a traumatic injury sustained in 1996. The best corrected visual acuity in his right eye is light perception and in the left, 20/20. Following an examination in 2006, his optometrist noted, ''It is my medical opinion that Mr. Larson has sufficient vision to perform the tasks required to operate a commercial vehicle.'' Mr. Larson reported that he has driven straight trucks for 12 years, accumulating 450,000 miles. He holds a Class A CDL from Wisconsin. His driving record for the last 3 years shows one crash and no convictions for moving violations in a CMV.

Carl A. Lohrbach

Mr. Lohrbach, 55, has retinal vein occlusion with subsequent glaucoma and optic nerve dysfunction in his right eye since 1999. The best corrected visual acuity in his right eye is count-finger-vision and in the left, 20/15. Following an examination in 2006, his ophthalmologist noted, ''It is my personal opinion that Mr. Carl Lohrbach is able to drive a commercial vehicle.'' Mr. Lohrbach reported that he has driven tractor-trailer combinations for 34 years, accumulating 295,800 miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Donald R. McCracken

Mr. McCracken, 61, has had an atrophic macular lesion in his left eye since 1991. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/200. Following an examination in 2006, his ophthalmologist noted, ''In light of the stability of Mr. McCracken's condition, it is my medical opinion that his vision is sufficient enough to perform the driving tasks required to operate a commercial vehicle.'' Mr. McCracken reported that he has driven tractor-trailer combinations for 35 years, accumulating 3.9 million miles. He holds a Class A CDL from Oregon. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Sharon D. McDaniel

Ms. McDaniel, 44, has had a macular scarring in her left eye due to persistent primary vitreous since birth. The best corrected visual acuity in her right eye is 20/20 and in the left, 20/70. Following an examination in 2006, her optometrist noted, ''In my professional opinion, Sharon has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Ms. McDaniel reported that she has driven buses for 8 years, accumulating 144,400 miles. She holds a Class B CDL from Nevada. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Larry E. McMillan

Mr. McMillan, 59, has a prosthetic right eye due to a traumatic injury sustained as a child. The visual acuity in his left eye is 20/20. Following an examination in 2006, his optometrist noted, ''Mr. McMillan has been driving for years with only one eye and can perform any driving task required to operate a commercial vehicle.'' Mr. McMillan reported that he has driven straight trucks for 10 years, accumulating 48,000 miles, and tractor-trailer combinations for 2 years, accumulating 24,000 miles. He holds a Class A CDL from Tennessee. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James E. Menz

Mr. Menz, 45, has had amblyopia in his left eye since birth. The best corrected visual acuity in his right eye is 20/18 and in the left, 20/100. Following an examination in 2006, his ophthalmologist noted, ''It is my considered medical opinion that Mr. Menz has sufficient vision to perform driving tasks required to operate a commercial vehicle during interstate commerce.'' Mr. Menz reported that he has driven tractor-trailer combinations for 20 years, accumulating 2.3 million miles. He holds a Class A CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

William F. Nickel

Mr. Nickel, 39, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/60 and in the left, 20/20. Following an examination in 2006, his optometrist noted, ''Mr. Nickel's vision is sufficient to operate commercial vehicles.'' Mr. Nickel reported that he has driven straight trucks for 12 years, accumulating 122,580 miles, and tractor-trailer combinations for 10 years, accumulating 407,310 miles. He holds a Class A CDL from Oregon. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV. He exceeded the speed limit by 16 mph.

Jeffrey L. Olson

Mr. Olson, 47, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/200 and in the left, 20/20. Following an examination in 2006, his optometrist noted, ''It is our opinion that Mr. Olson has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Olson reported that he has driven straight trucks for 8 years, accumulating 56,000 miles, tractor-trailer combinations for 3 years, accumulating 9,000 miles, and buses for 7 years, accumulating 105,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

John J. Payne

Mr. Payne, 54, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/80 and in the left, 20/20. Following an examination in 2006, his optometrist noted, ''It is my considered opinion that Mr. Payne, given his age and binocularity of vision, should maintain a commercial driving permit.'' Mr. Payne reported that he has driven straight trucks for 30 years, accumulating 450,000 miles, and tractor-trailer combinations for 30 years, accumulating 300,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Chris H. Pedersen

Mr. Pedersen, 56, has loss of vision in his right eye due to a corneal transplant that occurred in 1990. The best corrected visual acuity in his right eye is 20/60 and in the left, 20/20.

Following an examination in 2006, his optometrist noted, ''In my medical opinion, Mr. Pedersen has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Pedersen reported that he has driven straight trucks for 22 years, accumulating 228,800 miles. He holds a Class C operator's license from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Timmy J. Pottebaum

Mr. Pottebaum, 35, has loss of vision in his right eye due to complications of cataracts at birth. The best corrected visual acuity in his right eye is 20/63 and in the left, 20/30. Following an examination in 2006, his optometrist noted, ''Based on these findings, I feel Mr. Pottebaum has the visual abilities to safely continue to operate a commercial motor vehicle in interstate commerce because his visual loss has been present all of his life.'' Mr. Pottebaum reported that he has driven straight trucks for 7 years, accumulating 10,920 miles, and tractor-trailer combinations for 7 years, accumulating 49,140 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jerald W. Rehnke

Mr. Rehnke, 60, has multifocal choroiditis with macular scarring in his right eye since 2003. The best corrected visual acuity in his right eye is 20/80 and in the left, 20/20. Following an examination in 2006, his ophthalmologist noted, ''It is my medical opinion that this patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Rehnke reported that he has driven straight trucks for 34 years, accumulating 510,000 miles, and tractor-trailer combinations for 10 years, accumulating 1.2 million miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and two convictions for moving violations in a CMV. He exceeded the speed limit by 14 mph in one case, and in other, by 8 mph.

Donnie R. Riggs

Mr. Riggs, 46, has had loss of vision in his right eye due to ocular trauma sustained in 1969. The best corrected visual acuity in his right eye is 20/400 and in the left, 20/20. Following an examination in 2006, his optometrist noted, ''In my opinion, the patient is able to operate a commercial vehicle with his current vision status.'' Mr. Riggs reported that he has driven straight trucks for 17 years, accumulating 1 million miles, and tractor-trailer combinations for 8 years, accumulating 480,000 miles. He holds a Class D operator's license from Alabama. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Luis H. Sanchez

Mr. Sanchez, 38, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200 and in the left, 20/15. Following an examination in 2006, his optometrist noted, ''In my medical opinion, I certify that Mr. Luis Sanchez has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Sanchez reported that he has driven straight trucks for 17 years, accumulating 102,000 miles. He holds a Class D operator's license from Wisconsin. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James A. Shepard

Mr. Shepard, 52, has had a cataract in his right eye since birth. The visual acuity in his right eye is light perception and in the left, 20/20. Following an examination in 2006, his ophthalmologist noted, ''In my medical opinion, the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Shepard reported that he has driven straight trucks for 24 years, accumulating 1.2 million miles, and tractor-trailer combinations for 24 years, accumulating 2.5 million miles. He holds a Class A CDL from New York. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV. He exceeded the speed limit by 15 mph.

Timothy L. Shorey

Mr. Shorey, 36, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/400 and in the left, 20/20. Following an examination in 2006, his optometrist noted, ''In my medical opinion, I feel Tim has sufficient visual function to perform the driving tasks required to operate a commercial vehicle.'' Mr. Shorey reported that he has driven straight trucks for 17 years, accumulating 680,000 miles. He holds a Class A CDL from Wisconsin. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Herbert W. Smith

Mr. Smith, 52, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/15 and in the left, 20/80. Following an examination in 2006, his ophthalmologist noted, ''It is my professional opinion that Mr. Smith has no current ocular health concern and has more than adequate visual capabilities to operate a commercial vehicle with no restrictions, other than need for prescription glasses.'' Mr. Smith reported that he has driven straight trucks for 4 years, accumulating 160,000 miles. He holds a Class D operator's license from West Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Phillip L. Smith

Mr. Smith, 57, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is hand-motion and in the left, 20/20. Following an examination in 2006, his ophthalmologist noted, ''In my medical opinion, Mr. Phillip Smith has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Smith reported that he has driven straight trucks for 13 years, accumulating 3.3 million miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Randall S. Surber

Mr. Surber, 45, has complete loss of vision in his left eye due to a retinal detachment that occurred in 1983. The visual acuity in his right eye is 20/15 and in the left, no light perception. Following an examination in 2006, his optometrist noted, ''In my professional opinion, Randall has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Surber reported that he has driven straight trucks for 25 years, accumulating 1 million miles, and tractor-trailer combinations for 17 years, accumulating 1.4 million miles. He holds a Class A CDL from West Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Roger A. Thein, Jr.

Mr. Thein, 39, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/50 and in the left, 20/20. Following an examination in 2006, his ophthalmologist noted, ''This slightly limited visual acuity on testing of the right eye along with his outstanding

visual acuity of the left eye and absolutely normal visual field, in my medical opinion, certainly gives him a level of vision to perform his driving tasks in a commercial vehicle safely.'' Mr. Thein reported that he has driven straight trucks for 20 years, accumulating 832,000 miles. He holds a Class D operator's license from Wisconsin. His driving record for the last 3 years shows one crash, for which he was cited, and no convictions for moving violations in a CMV.

Ernest W. Waff

Mr. Waff, 55, has complete loss of vision in his left eye due to a retinal detachment that he has had for 25 years. The best corrected visual acuity in his right eye is 20/20. Following an examination in 2006, his ophthalmologist noted, ''He has sufficient vision to perform the driving tasks to operate a commercial vehicle.'' Mr. Waff reported that he has driven straight trucks for 34 years, accumulating 221,000 miles. He holds a Class C operator's license from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Mikiel J. Wagner

Mr. Wagner, 51, has loss of vision in his right eye due to keratoconus and later corneal decompensation. The visual acuity in his right eye is light perception and in the left, 20/20. Following an examination in 2006, his ophthalmologist noted, ''I believe he has satisfactory visual function to operate a commercial vehicle.'' Mr. Wagner reported that he has driven straight trucks for 25 years, accumulating 650,000 miles. He holds a Class C operator's license from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Joseph W. Wigley

Mr. Wigley, 42, has loss of vision in his left eye due to a traumatic injury sustained in 1985. The best corrected visual acuity in his right eye is 20/20 and in the left, no light perception. Following an examination in 2006, his optometrist noted, ''In our professional medical opinion, Mr. Wigley has sufficient vision to perform the driving tasks required to operate commercial vehicle.'' Mr. Wigley reported that he has driven straight trucks for 18 years, accumulating 153,000 miles. He holds a Class D operator's license from Arkansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this Notice. The Agency will consider all comments received before the close of business February 1, 2007. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this Notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: December 20, 2006.

Rose A. McMurray,

Associate Administrator, Policy and Program Development.

[FR Doc. E6–22503 Filed 12–29–06; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–00–7363, FMCSA–04–17984, FMCSA–04–18885]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 8 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective January 3, 2007. Comments must be received on or before February 2, 2007.

ADDRESSES: You may submit comments identified by DOT Docket Management System (DMS) Docket Numbers FMCSA–00–7363, FMCSA–04–17984, FMCSA–04–18885, using any of the following methods.

- *Web Site: http://dmses.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

Instructions: All submissions must include the Agency name and docket numbers for this Notice. Note that all comments received will be posted without change to *http://dms.dot.gov,* including any personal information provided. Please see the Privacy Act heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The DMS is available 24 hours each day, 365 days each year. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477; Apr. 11, 2000). This information is also available at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (202) 366–4001, *maggi.gunnels@dot.gov,* FMCSA, Department of Transportation, 400 Seventh Street, SW., Room 8301, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Exemption Decision

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381. This Notice addresses 8 individuals who have requested renewal of their exemptions in a timely manner. FMCSA has evaluated these 8 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

David D. Bungori, Jr., David R. Cox, Timothy A. DeFrange, Robert T. Hill, Francisco J. Jimenez, Robert B. Schmitt, Rick N. Ulrich, Larry D. Wedekind.

These exemptions are extended subject to the following conditions: (1) That each individual have a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 8 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 45817; 65 FR 77066; 67 FR 71610; 69 FR 64810; 69 FR 33997; 69 FR 61292; 69 FR 53493; 69 FR 62742). Each of these 8 applicants has requested timely renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by February 1, 2007.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published Notices of final disposition announcing its decision to exempt these 8 individuals from the vision requirement in 49 CFR 391.41(b)(10). That final decision to grant the exemption to each of these individuals was based on the merits of each case and only after careful consideration of the comments received to its Notices of applications. Those Notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all of these drivers, are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: December 20, 2006.

Rose A. McMurray,

Associate Administrator, Policy and Program Development.

[FR Doc. E6–22505 Filed 12–29–06; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2006–25765]

Union Pacific Railroad Company; Notice of Public Hearing and Extension of Comment Period

On November 28, 2006, the Federal Railroad Administration (FRA) published a notice in the **Federal Register** announcing the Union Pacific Railroad Company's (UP) request for a waiver of compliance from certain provisions of Title 49 Code of Federal Regulations (CFR) Part 232, Brake and System Safety Standards for Freight and Other Non-passenger Trains and Equipment; 49 CFR part 215, End of Train Devices; 49 CFR 229, Freight Car Safety Standards; and 71 FR 68885, Locomotive Safety Standards. Specifically, UP requests that the following regulations be waived to allow inspections and tests to be performed on run-through trains originating in Mexico and subsequently interchanged to UP at Laredo, Texas, from the Kansas City Southern de Mexico Railroad (KCSM) and be considered valid without having to perform additional train or locomotive inspections by UP on the U.S. side of the border: 49 CFR 232.205, Class I brake test-initial terminal inspection; 49 CFR 232.409, Inspection and testing of end-of-train devices; 49 CFR 215.13, Pre-departure inspection; and 49 CFR 229.21, Daily inspection.

FRA received several comments from interested parties and requests for a public hearing and an extension of the public comment period. With this notice, FRA is granting both of these requests.

Accordingly, a public hearing is hereby scheduled to begin at 9 a.m. on February 7, 2007, at La Posada Hotel and Suites, 1000 Zaragoza Street, in

Laredo, Texas. Interested parties are invited to present oral statements at the hearing. The hearing will be informal and will be conducted in accordance with FRA's Rules of Practice (49 CFR 211.25) by a representative designated by FRA. FRA's representative will make an opening statement outlining the scope of the hearing, as well as any additional procedures for the conduct of the hearing. The hearing will be a nonadversarial proceeding in which all interested parties will be given the opportunity to express their views regarding the waiver petition, without cross-examination. After all initial statements have been completed, individuals wishing to make a brief rebuttal statement will be given an opportunity to do so in the same order in which the initial statements were made.

In addition, FRA is hereby extending the comment period to February 21, 2007. All communications concerning this waiver petition should identify the appropriate docket number (FRA–2006–25765) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. Documents in the public docket are also available for review and copying on the Internet at the docket facility Web site at *http://dms.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78). The statement may also be found at *http://dms.dot.gov.*

Issued in Washington, DC on December 26, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–22443 Filed 12–29–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2006–26740]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before March 5, 2007.

FOR FURTHER INFORMATION CONTACT: Thomas M.P. Christensen, Office of National Security Plans, Maritime Administration, 400 Seventh St., SW., Washington, DC 20590. *Telephone:* 202–366–5900; FAX 202–488–0941 or *e–mail: tom.christensen@dot.gov.* Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Voluntary Tanker Agreement.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0505.

Form Numbers: None.

Expiration Date of Approval: Three years after date of approval by the Office of Management and Budget.

Summary of Collection of Information: The collection consists of a request from the Maritime Administration (MARAD) that each participant in the Voluntary Tanker Agreement submit a list of the names of ships owned, chartered or contracted for by the participant, and their size and flags of registry. There is no prescribed format for this information.

Need and Use of the Information: The collected information is necessary to evaluate tanker capability and make plans for the use of this capability to meet national emergency requirements. This information will be used by both MARAD and Department of Defense to establish overall contingency plans.

Description of Respondents: Tanker companies that operate in international trade and who have agreed to participate in this agreement.

Annual Responses: 15.

Annual Burden: One hour per response.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments may also be submitted by electronic means via the Internet at *http://www.dmses.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT, Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://www.dms.dot.gov.*

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.dms.dot.gov.*

(Authority: 49 CFR 1.66)

Dated: December 27, 2006.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–22486 Filed 12–29–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption from the Federal Motor Vehicle Theft Prevention Standard; DaimlerChrysler

AGENCY: National Highway traffic Safety Administration (NHTSA), Department of Transportation (DOT)

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the DaimlerChrysler Corporation's (DaimlerChrysler) petition for exemption of the Dodge Magnum vehicle line in accordance with 49 CFR Part 543, *Exemption from the Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to

be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541).

DATES: The exemption granted by this notice is effective beginning with the 2008 model year.

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Vehicle, Fuel Economy and Consumer Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Ballard's phone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: In a petition dated June 2, 2006, DaimlerChrysler requested an exemption from the parts-marking requirements of the theft prevention standard (49 CFR Part 541) for the Dodge Magnum vehicle line, beginning with the 2008 model year. The petition has been filed pursuant to 49 CFR Part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for an entire vehicle line. DaimlerChrysler's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

Under § 543.5(a), a manufacturer may petition NHTSA to grant exemptions for one line of its vehicle lines per year. In its petition, DaimlerChrysler provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Dodge Magnum vehicle line. DaimlerChrysler stated that all Dodge Magnum vehicles will be equipped with a standard Sentry Key Immobilizer System (SKIS) antitheft device. The SKIS, a transponder-based, passive immobilizer antitheft device will provide vehicle protection by preventing the engine from operating unless a valid electronically encoded key is detected in the ignition lock cylinder. The SKIS consists of a Wireless Ignition Node Module (WIN), a Powertrain Control Module (PCM), and a FOB Integrated Key (FOBIK) which collectively perform the immobilizer function. The immobilizer feature is activated when the key is removed from the ignition switch. Once activated, only a valid key inserted into the ignition switch will disable immobilization and allow the vehicle to start and continue to run.

According to DaimlerChrysler, each new FOBIK is programmed for operation of the Remote Keyless Entry (RKE) system and has a unique transponder identification code that is permanently programmed into it by the manufacturer. The ignition key must be programmed into the WIN module to be recognized by the SKIS as a valid key. The FOBIK transponder cannot be adjusted or repaired. once the FOBIK has been programmed to a particular vehicle, it cannot be used on another vehicle. If it is faulty or damaged, the entire key and RKE transmitter unit must be replaced.

In addressing the specific content requirements of 543.6, DaimlerChrysler provided information on the reliability and durability of its proposed device. To ensure the reliability and durability of the device, DaimlerChrysler conducted tests based on its own specific standards. DaimlerChrysler provided information on the tests conducted and believes that the device is reliable and durable since the device complied with its specified requirements for each test. According to DaimlerChrysler, the device has met stringent performance standards which demonstrated a minimum 95 percent reliability. The SKIS also undergoes daily short-term durability tests and all of the devices undergo a series of three functional tests prior to being shipped from the supplier to the vehicle assembly plant for installation in the vehicles.

DaimlerChrysler also stated that the proposed antitheft device does not provide any visible or audible indication of unauthorized entry.

DaimlerChrysler believes that the immobilizer system proposed for the Dodge Magnum will be at least as effective as compliance with the parts-marking requirements of the theft prevention standard. DaimlerChrysler also stated that its experience with vehicles subject to the parts-marking requirement that are later equipped with ignition immobilizer systems as standard equipment indicate that even lower theft rates can be expected from vehicles initially equipped with standard ignition immobilizer systems as that proposed. It has concluded that the proposed antitheft device is no less effective than those devices installed on lines for which NHTSA has already granted full exemption from the parts-marking requirements.

For comparative purposes, DaimlerChrysler offered the Jeep Grand Cherokee vehicles as an example of vehicles subject to the parts-marking requirements that have been equipped with ignition immobilizer systems as standard equipment. The Jeep Grand Cherokee vehicle line was granted an exemption from the parts-marking requirements beginning with MY 2004 vehicles, however it has had a SKIS system installed as standard equipment since the 1999 model year. DaimlerChrysler stated that NHTSA's theft data for the Jeep Grand Cherokee vehicle line for model years prior to 1999 (MY 1995 through 1998) provides evidence that the average theft rate is significantly higher than the 1990/1991 median theft rate of 3.5826. For clarification purposes, the agency would like to note that it does not collect theft data. NHTSA publishes theft rates based on data provided by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. NHTSA uses the NCIC data to calculate theft rates and publishes these rates annually in the **Federal Register**. DaimlerChrysler also indicated that, since the introduction of immobilizer systems as standard equipment on Jeep Grand Cherokee vehicles, the average theft rate for the five model years (MY 1999 through 2003) is significantly lower than the 1990/1991 median theft rate of 3.5826.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for an exemption from the parts-marking requirements of part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft devices is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-making requirements of part 541. As explained below, the agency finds that DaimlerChrysler has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information DaimlerChrysler provided and additional investigation by NHTSA about the device for the Dodge Magnum vehicle line.

The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device. The agency agrees that the device is substantially similar to the device the agency approved for the Jeep Grand Cherokee, which was also a SKIS which did provide a visual or audible indication. As cited by DaimlerChrysler, the average theft rate for the Jeep Grand Cherokee has decreased substantially since the installation of this device as standard equipment. While DaimlerChrysler used a different method of calculating the average theft

rates than NHTSA has used in the past, NHTSA agrees that both calculations show a substantial reduction in the theft rate since the installation of the device as standard equipment.

For the foregoing reasons, the agency hereby grants in full DaimlerChrysler's petition for exemption for the Dodge Magnum vehicle line from the parts-marking requirements of 49 CFR Part 541, beginning with the 2008 model year vehicles. The agency notes that 49 CFR Part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR Part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If DaimlerChrysler decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, the line must be fully marked as required by 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if DaimlerChrysler wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as de minimis, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: December 27, 2006.

Stephen R. Kratzke,

Associate Administration for Rulemaking.

[FR Doc. 06–9957 Filed 12–29–06; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; Nissan

AGENCY: National Highway Traffic Safety Administration (NHTSA) Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Nissan North America, Inc.'s (Nissan) petition for exemption of the Versa vehicle line in accordance with 49 CFR Part 543, *Exemption from the Theft Prevention Standard*. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541). Nissan requested confidential treatment for the information and attachments it submitted in support of its petition. In a letter dated November 2, 2006, the agency granted the petitioner's request for confidential treatment of most aspects of its petition.

DATES: The exemption granted by this notice is effective beginning with the 2008 model year.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Vehicle, Fuel Economy and Consumer Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Mazyck's phone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: In a petition dated September 29, 2006, Nissan requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR Part 541) for the MY 2008 Nissan Versa vehicle line. The petition requested an exemption from parts-marking pursuant to 49 CFR 543, *Exemption from Vehicle Theft Prevention Standard*, based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 543.5(a), a manufacturer may petition NHTSA to grant exemptions for one line of its vehicle lines per model year. In its petition, Nissan provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device fro the new vehicle line. Nissan will install its passive, transponder-based immobilizer device as standard equipment on its Versa vehicle line beginning with MY 2008. Key components of the antitheft device are in engine electronic control module (ECM), a passive immobilizer and a transponder key. The immobilizer system prevents normal operation of the vehicle without the use of the key. Nissan also stated that the system will not incorporated an audible or visible alarm. Nissan's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in 543.5 and the specific content requirements of 543.6.

Nissan also provided information on the reliability and durability of its proposed device, conducting tests based on its own specified standards. In a letter dated November 2, 2006, NHTSA granted Nissan confidential treatment for the test information. Nissan provided a list of the tests it conducted. Nissan based its belief that the device is reliable and durable on the fact that the device complied with the specific requirements for each test.

Nissan compared the device proposed for its vehicle line with other devices which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. Nissan stated that its antitheft device will be no less effective than those devices in the lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Nissan stated that NHTSA's theft data have shown a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which Nissan proposes to install on the new line. Nissan stated that based on the agency's theft rate data, the Buick Riviera and the Oldsmobile Toronado/Aurora vehicles equipped with the PASS-Key and PASS-Key II systems experienced a significant reduction in theft rates from 1987 to 1996. Nissan concluded that the data indicates that the immobilizer was effective in contributing to the theft rate reduction for these lines. Nissan stated that based on NHTSA's theft data for 1987 through 1996, the average theft rate for the Buick Rivieraand the Oldsmobile Toronado/Aurora vehicles without the immobilizer was 4.8970 and 5.0760,

respectively and 1.4288 and 2.0955 after installation of the immobilizer device. Further review of the agency's theft data published through the 2004 MY revealed that, while there is some variation, the theft rates for both lines continued to stay below the median theft rate of 3.5826. The agency agrees that the device is substantially similar to devices in other vehicles for which the agency has already granted exemptions.

For clarification purposes, the agency notes that it does not collect theft data. NHTSA publishes theft rates based on data provided by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. NHTSA uses NCIC data to calculate theft rates and publishes these rates annually in the**Federal Register**.

The agency also notes that the device will provide four of the five types of performances listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for an exemption from the parts-marking requirements of part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The agency finds that Nissan has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Nissan provided about its device.

For the foregoing reasons, the agency hereby grants in full Nissan's petition for exemption for the Versa vehicle line from the parts-marking requirements of 49 CFR Part 541, beginning with the 2008 model year vehicles. The agency notes that 49 CFR Part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR Part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Nissan decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, the line must be fully marked as required by 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Nissan wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Parts 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: December 27, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Notice of Funds Availability (NOFA) Inviting Applications for the FY 2007 and FY 2008 Funding Rounds of the Bank Enterprise Award (BEA) Program

Announcement Type: Initial announcement of funding opportunity. *Catalog of Federal Domestic Assistance (CDFA) Number:* 21.021.

DATES: Applications for the FY 2007 funding round must be received by 5 p.m. ET on March 15, 2007 and applications for the FY 2008 funding round must be received by 5 p.m. ET on March 13, 2008. Applications must meet all eligibility and other requirements and deadlines, as applicable, set forth in this NOFA. Applications received after 5 p.m. ET on the applicable deadline will be rejected and returned to the sender.

Executive Summary: This NOFA is issued in connection with the FY 2007 and FY 2008 funding rounds of the BEA Program. Through the BEA Program, the Community Development Financial Institutions Fund (the Fund) encourages Insured Depository Institutions to increase their levels of loans, investments, services, and technical assistance within Distressed Communities, and financial assistance to Community Development Financial Institutions (CDFIs) through grants, stock purchases, loans, deposits, and other forms of financial and technical assistance, during a specified period.

I. Funding Opportunity Description

A. Baseline Period and Assessment Period Dates

A BEA Program award is based on an Applicant's increases in Qualified Activities from the Baseline Period to the Assessment Period. For the FY 2007 funding round, the Baseline Period is calendar year 2005 (January 1, 2005 through December 31, 2005), and the Assessment Period is calendar year 2006 (January 1, 2006 through December 31, 2006). For the FY 2008 funding round, the Baseline Period is calendar year 2006 (January 1, 2006 through December 31, 2006), and the Assessment Period is calendar year 2007 (January 1, 2007 through December 31, 2007).

B. Program Regulations

The regulations governing the BEA Program can be found at 12 CFR part 1806 (the Interim Rule) and provide guidance on evaluation criteria and other requirements of the BEA Program. The Fund encourages Applicants to review the Interim Rule. Detailed application content requirements are found in the application related to this NOFA. Each capitalized term in this NOFA is more fully defined either in the Interim Rule or the application.

C. Qualified Activities

Qualified Activities are defined in the Interim Rule to include CDFI Related Activities, Distressed Community Financing Activities, and Service Activities (12 CFR 1806.103(mm)). CDFI Related Activities include Equity Investments, Equity-Like Loans, and CDFI Support Activities (12 CFR 1806.103(p)). Distressed Community Financing Activities include Affordable Housing Loans, Affordable Housing Development Loans and related Project

Investments; Education Loans; Commercial Real Estate Loans and related Project Investments; Home Improvement Loans; and Small Business Loans and related Project Investments (12 CFR 1806.103(u)). Service Activities include Deposit Liabilities, Financial Services, Community Services, Targeted Financial Services, and Targeted Retail Savings/Investment Products (12 CFR 1806.103(oo)).

When calculating BEA Program award amounts, the Fund will count only the amount an Applicant reasonably expects to disburse for a Qualified Activity within 12 months from the end of the Assessment Period. Subject to the exception outlined in Section I. G.1. of this NOFA, in no event shall the value of a Qualified Activity for purposes of determining a BEA Program award exceed $10 million in the case of Commercial Real Estate Loans or any CDFI Related Activities (i.e., the total principal amount of the transaction must be $10 million or less to be considered a Qualified Activity).

D. Designation of Distressed Community

An Applicant applying for a BEA Program award for carrying out Distressed Community Financing Activities, Services Activities, or CDFI Support Activities must designate one or more Distressed Communities. Each CDFI Partner that is the recipient of CDFI Support Activities from an Applicant must also designate a Distressed Community. The CDFI Partner can identify a different Distressed Community than the Applicant. Applicants providing Equity Investments to a CDFI, and CDFI Partners that receive Equity Investments, are not required to designate Distressed Communities. Please note that the CDFI Partner's designated Distressed Community must meet the requirements of the BEA Program and that a Distressed Community as defined by the BEA Program is not the same as an Investment Area as defined by the CDFI Program, or a Low-Income Community as defined by the New Markets Tax Credit (NMTC) Program.

1. *Definition of Distressed Community:* A Distressed Community, defined in the Interim Rule at 12 CFR 1806.103(t) and more fully described in 12 CFR 1806.200, must meet the following minimum geographic, population, poverty, and unemployment requirements:

(a) *Geographic requirements.* A Distressed Community must be a geographic area: (i) That is located within the boundaries of a Unit of General Local Government; (ii) the boundaries of which are contiguous; and (A) The population of which is at least 4,000 if any portion of the area is located within a Metropolitan Area with a population of 50,000 or greater; (B) the population must be at least 1,000 if no portion of the area is located within such a Metropolitan Area; or (C) the area is located entirely within an Indian Reservation.

(b) *Economic distress requirements.* A Distressed Community must be a geographic area where:

(i) At least 30 percent of the Residents have incomes that are less than the national poverty level, as published by the U.S. Bureau of the Census in the most recent decennial census for which data is available; and (ii) the unemployment rate is at least 1.5 times greater than the national average, as determined by the U.S. Bureau of Labor Statistics' most recent data, including estimates of unemployment developed using the U.S. Bureau of Labor Statistics' Census Share calculation method.

2. *Designation of Distressed Community:* An Applicant or CDFI Partner (as appropriate) shall designate an area as a Distressed Community by:

(a) Selecting Geographic Units which individually meet the minimum area eligibility requirements; or

(b) Selecting two or more Geographic Units which, in the aggregate, meet the minimum area eligibility requirements set forth in paragraph (1) of this section provided that no Geographic Unit selected by the Applicant within the area has a poverty rate of less than 20 percent.

An Applicant engaging in Distressed Community Financing Activities or Service Activities designates a Distressed Community by submitting: (i) A List of Eligible Census Tracts; and (ii) a Map of the Distressed Community.

An Applicant that engaged in CDFI Support Activities only (or CDFI Support Activities and Equity Investments) may designate the same Distressed Community as any one of its CDFI Partners by signing and submitting with its application, a certification (included in the application materials) that it is designating the same Distressed Community as its CDFI Partner. A CDFI Partner designates a Distressed Community by submitting: (i) A List of Eligible Census Tracts; (ii) a Map of the Distressed Community; and (iii) a Statement of Integral Involvement demonstrating that the CDFI Partner is Integrally Involved in the Distressed Community.

Applicants and CDFI Partners must use the CDFI Fund Information Mapping System (CIMS) to designate Distressed Communities. CIMS is accessed through *myCDFIFund* and contains step-by-step instructions on how to create and print the aforementioned List of Eligible Census Tracts and Map of the Distressed Community. *MyCDFIFund* is an electronic interface that is accessed through the Fund's Web site (*http://www.cdfifund.gov*). Instructions for registering with myCDFIFund are available on the Fund's Web site. If you have any questions or problems with registering, please contact the CDFI Fund IT HelpDesk by telephone at (202) 622–2455, or by e-mail to *ITHelpDesk@cdfi.treas.gov.*

E. CDFI Related Activities

CDFI Related Activities include Equity Investments, Equity-Like Loans, and CDFI Support Activities provided to eligible CDFI Partners. In addition to regulatory requirements, this NOFA provides the following:

1. *Eligible CDFI Partner:* CDFI Partner is defined as a CDFI that has been provided assistance in the form of CDFI Related Activities by an Applicant (12 CFR § 1806.103(o)). For the purposes of this NOFA, an eligible CDFI Partner is an entity that has been certified as a CDFI as of the date of application.

2. *Limitations on eligible Qualified Activities provided to certain CDFI Partners:* An Applicant that is also a CDFI cannot receive credit for any financial assistance or Qualified Activities provided to a CDFI Partner that is also an FDIC-insured depository institution or depository institution holding company.

3. *Certificates of Deposit:* Section 1806.103(q) of the Interim Rule states that any certificate of deposit placed by an Applicant or its Subsidiary in a CDFI that is a bank, thrift, or credit union must be: (i) Uninsured and committed for at least three years; or (ii) insured, committed for a term of at least three years, and provided at an interest rate that is materially below market rates, in the determination of the Fund. For purposes of this NOFA, ''materially below market interest rate'' is defined as an annual percentage rate that does not exceed 100 percent of yields on Treasury securities at constant maturity as interpolated by Treasury from the daily yield curve and available on the Federal Reserve website at *www.federalreserve.gov/releases/H15/update.* For example, for a three-year certificate of deposit, Applicants should use the three-year rate posted for U.S. Government securities, Treasury Constant Maturity on H. 15 (Selected Interest Rates) Daily Release. The

Federal Reserve updates the H. 15 daily at approximately 4:00 p.m. ET. Certificates of deposit placed prior to that time may use the rate posted for the previous day. The annual percentage rate on a certificate of deposit should be compounded quarterly, semi-annually, or annually. In addition, Applicants should determine whether a certificate of deposit is insured based on the total amount the Applicant or its Subsidiary has on deposit on the day the certificate of deposit is placed. For example, if an Applicant purchased a $100,000 3-year certificate of deposit from a CDFI in April, 2003 and the Applicant purchases another $100,000 certificate of deposit from the same CDFI in May, 2004, then the second certificate of deposit should be treated as uninsured for purposes of calculating the annual percentage rate. The Applicant must note, in its BEA Program application, whether the certificate of deposit is insured or uninsured.

F. Equity-Like Loans

An Equity-Like Loan is a loan provided by an Applicant or its Subsidiary to a CDFI, and made on such terms that it has characteristics of an Equity Investment (consistent with requirements of the Appropriate Federal Banking Agency), as such characteristics may be specified by the Fund (12 CFR 1806.103(y)). For purposes of this NOFA, Equity-Like Loans must meet the following characteristics:

1. At the end of the initial term, the loan must have a definite rolling maturity date that is automatically extended on an annual basis if the CDFI borrower continues to be financially sound and carry out a community development mission;

2. Periodic payments of interest and/or principal may only be made out of the CDFI borrower's available cash flow after satisfying all other obligations;

3. Failure to pay principal or interest (except at maturity) will not automatically result in a default of the loan agreement; and

4. The loan must be subordinated to all other debt except for other Equity-Like Loans.

Notwithstanding the foregoing, the Fund reserves the right to determine, in its sole discretion and on a case-by-case basis, if an instrument meets the above-stated characteristics of an Equity-Like Loan. Applicants must submit to the Fund for review, not later than 45 days prior to the end of the applicable Assessment Period, all documents evidencing loans that they wish to be considered as Equity-Like Loans. The purpose for this request is to enhance the Fund's ability to provide feedback to Applicants as to whether a transaction meets the Equity-Like Loan characteristics prior to the end of the applicable Assessment Period. The Fund will not redraft instruments, provide language for Applicants, or render legal opinions related to Equity-Like Loans. However, the Fund, in its sole discretion, may comment as to the consistency of a proposed instrument with the above-stated Equity-Like Loan characteristics. Such information will allow Applicants, if they so choose, to modify the instruments to conform to the program requirements prior to the end of the Assessment Period. This process is intended to prevent circumstances in which an Applicant executes loan documents without review by the Fund only to learn after the close of the Assessment Period that the transaction is ineligible for purposes of a BEA Program award. The Fund cannot guarantee timely feedback to Applicants that submit the aforementioned documentation less than 45 days prior to the end of the applicable Assessment Period.

G. Distressed Community Financing Activities

Distressed Community Financing Activities include Affordable Housing Loans, Affordable Housing Development Loans and related Project Investments, Education Loans, Commercial Real Estate Loans and related Project Investments, Home Improvement Loans, and Small Business Loans and related Project Investments (12 CFR 1806.103(u)). In addition to the regulatory requirements, this NOFA provides the following additional requirements.

1. *Commercial Real Estate Loans and related Project Investments:* For purposes of this NOFA, eligible Commercial Real Estate Loans (12 CFR 1806.103(l)) and related Project Investments (12 CFR 1806.103(ll)) are generally limited to transactions with a total principal value of up to and including $10 million. The Fund will calculate award amounts in accordance with Section VIII.B. of this NOFA. Notwithstanding the foregoing, the Fund, in its sole discretion, may consider transactions with a total principal value of over $10 million, subject to review and approval of the Applicant's ''community benefit statement.'' The Applicant must demonstrate that the proposed project offers, or significantly enhances the quality of, a facility or service not currently provided to the Distressed Community. The application form contains additional information on how to fulfill this requirement.

2. *Reporting certain Financial Services:* The Fund will value the administrative cost of providing certain Financial Services at the following per unit values:

(a) $100.00 per account for Targeted Financial Services;

(b) $50.00 per account for checking and savings accounts that do not meet the definition of Targeted Financial Services;

(c) $5.00 per check cashing transaction times the total number of check cashing transactions;

(d) $25,000 per new ATM installed at a location in a Distressed Community;

(e) $2,500 per ATM operated at a location in a Distressed Community;

(f) $250,000 per new retail bank branch office opened in a Distressed Community; and

(g) In the case of Applicants engaging in Financial Services activities not described above, the Fund will determine the account or unit value of such services.

3. In the case of opening a new retail bank branch office, the Applicant must certify that it has not operated a retail branch in the same census tract in which the new retail branch office is being opened in the past three years, and that such new branch will remain in operation for at least the next five years.

Financial Service Activities must be provided by the Applicant to Low- and Moderate-Income Residents. An Applicant may determine the number of Low- and Moderate-Income individuals who are recipients of Financial Services by either:

(a) Collecting income data on its Financial Services customers; or

(b) Certifying that the Applicant reasonably believes that such customers are Low- and Moderate-Income individuals and providing a brief analytical narrative with information describing how the Applicant made this determination.

II. Award Information

A. Award Amounts

Subject to funding availability, the Fund expects that it may award approximately $10 million for FY 2007 BEA Program awards, and approximately $10 million for FY 2008 BEA Program awards, in appropriated funds under this NOFA. The Fund reserves the right to award in excess of said funds under this NOFA, provided that the appropriated funds are available and the Fund deems it appropriate. Under this NOFA, the Fund anticipates a maximum award amount of $500,000 per Applicant. The Fund, in its sole

discretion, reserves the right to award amounts in excess of the anticipated maximum award amount if the Fund deems it appropriate. Further, the Fund reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFA. The Fund reserves the right to re-allocate funds from the amount that is anticipated to be available under this NOFA to other Fund programs, particularly if the Fund determines that the number of awards made under this NOFA is fewer than projected.

When calculating award amounts, the Fund will count only the amount an Applicant reasonably expects to disburse on a transaction within 12 months from the end of the Assessment Period. Subject to the exception outlined in Section I. G.1. of this NOFA, in no event shall the value of a Qualified Activity for purposes of determining a BEA Program award exceed $10 million in the case of Commercial Real Estate Loans or any CDFI Related Activities (i.e., the total principal amount of the transaction must be $10 million, or less to be considered a Qualified Activity).

B. Types of Awards

BEA Program awards are made in the form of grants.

C. Notice of Award and Award Agreement

Each awardee under this NOFA must sign a Notice of Award and an Award Agreement prior to disbursement by the Fund of award proceeds. The Notice of Award and the Award Agreement contain the terms and conditions of the award. For further information, see Section IX. of this NOFA.

III. Eligibility

A. Eligible Applicants

The legislation that authorizes the BEA Program specifies that eligible Applicants for the BEA Program must be Insured Depository Institutions, as defined in 12 U.S.C. 1813(c)(2). An Applicant must be FDIC-insured by December 31, 2006 for the FY 2007 funding round and by December 31, 2007 for the FY 2008 funding round to be eligible for consideration for a BEA Program award under this NOFA.

1. *Prior awardees:* Applicants must be aware that success in a prior round of any of the Fund's programs is not indicative of success under this NOFA. Prior BEA Program awardees and prior awardees of other Fund programs are eligible to apply under this NOFA, except as follows:

(a) *Failure to meet reporting requirements:* The Fund will not consider an application submitted by an Applicant if the Applicant, or an entity that Controls (as such term is defined in paragraph (g) below) the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund) is a prior Fund awardee or allocatee under any Fund program and is not current on the reporting requirements set forth in the previously executed assistance, award or allocation agreement(s), as of the application deadline(s) of this NOFA. Please note that the Fund only acknowledges the receipt of reports that are complete. As such, incomplete reports or reports that are deficient of required elements will not be recognized as having been received.

(b) *Pending resolution of noncompliance:* If an Applicant that is a prior awardee or allocatee under any Fund program and if: (i) It has submitted complete and timely reports to the Fund that demonstrate noncompliance with a previous assistance, award or allocation agreement, and (ii) the Fund has yet to make a final determination as to whether the entity is in default of its previous assistance, award or allocation agreement, the Fund will consider the Applicant's application under this NOFA pending full resolution, in the sole determination of the Fund, of the noncompliance. Further, if another entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund), is a prior Fund awardee or allocatee and if such entity: (i) Has submitted complete and timely reports to the Fund that demonstrate noncompliance with a previous assistance, award or allocation agreement, and (ii) the Fund has yet to make a final determination as to whether the entity is in default of its previous assistance. award or allocation agreement, the Fund will consider the applicant's application under this NOFA pending full resolution, in the sole determination of the Fund, of the noncompliance.

(c) *Default status:* The Fund will not consider an application submitted by an Applicant that is a prior Fund awardee or allocatee under any Fund program if, as of the applicable application deadline of this NOFA, the Fund has made a final determination that such Applicant is in default of a previously executed assistance, award or allocation agreement(s). Further, an entity is not eligible to apply for an award pursuant to this NOFA if, as of the applicable application deadline, the Fund has made a final determination that another entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund): (i) Is a prior Fund awardee or allocatee under any Fund program, and (ii) has been determined by the Fund to be in default of a previously executed assistance, award or allocation agreement(s).

(d) *Termination in default:* The Fund will not consider an application submitted by an Applicant that is a prior Fund awardee or allocatee under any Fund program if, within the 12-month period prior to the application deadline of this NOFA, the Fund has made a final determination that such Applicant's prior award or allocation terminated in default of the assistance, award or allocation agreement and the Fund has provided written notification of such determination to such Applicant. Further, an entity is not eligible to apply for an award pursuant to this NOFA if, within the 12-month period prior to the application deadline of this NOFA, the Fund has made a final determination that another entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund), is a prior Fund awardee or allocatee under any Fund program whose award or allocation terminated in default of the assistance, award or allocation agreement and the Fund has provided written notification of such determination to the defaulting entity.

(e) *Undisbursed balances:* The Fund will not consider an application submitted by an Applicant that is a prior Fund awardee under any Fund program if the Applicant has a balance of undisbursed funds (defined below) under said prior award(s), as of the application deadline of this NOFA. Further, an entity is not eligible to apply for an award pursuant to this NOFA if another entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund), is a prior Fund awardee under any Fund program, and has a balance of undisbursed funds (defined below) under said prior award(s), as of the application deadline of this NOFA. In the case where another entity Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund), is a prior Fund awardee under any Fund program, and has a balance of undisbursed funds under said prior award(s), as of the application deadline

of this NOFA, the Fund will include the combined awards of the Applicant and such affiliated entities when calculating the amount of undisbursed funds.

(f) For the purposes of this section, ''undisbursed funds'' is defined as: (i) In the case of prior BEA Program award(s), any balance of award funds equal to or greater than five (5) percent of the total prior BEA Program award(s) that remains undisbursed more than three (3) years after the end of the calendar year in which the Fund signed an award agreement with the Awardee, and (ii) in the case of prior CDFI Program or other Fund program award(s), any balance of award funds equal to or greater than five (5) percent of the total prior award(s) that remains undisbursed more than two (2) years after the end of the calendar year in which the Fund signed an assistance agreement with the awardee.

''Undisbursed funds'' does not include (i) tax credit allocation authority allocated through the New Markets Tax Credit Program; (ii) any award funds for which the Fund received a full and complete disbursement request from the awardee as of the application deadline of this NOFA; and (iii) any award funds for an award that has been terminated, expired, rescinded, or deobligated by the Fund.

(g) For purposes of this NOFA, the term ''Control'' means: (1) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of Voting Securities (as defined in 12 CFR 1805.104(mm) of any legal entity, directly or indirectly or acting through one or more other persons; (2) control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of any legal entity; or (3) the power to exercise, directly or indirectly, a controlling influence over the management, credit or investment decisions, or policies of any legal entity.

(h) *Contact the Fund:* Accordingly, Applicants that are prior awardees and/or allocatees under any Fund program are advised to: (i) Comply with requirements specified in assistance, award and/or allocation agreement(s), and (ii) contact the Fund to ensure that all necessary actions are underway for the disbursement of any outstanding balance of a prior award(s). All outstanding reports, compliance or disbursement questions should be directed to the Grants Management and Compliance Manager by e-mail at *gmc@cdfi.treas.gov*; by telephone at (202) 622–8226; by facsimile at (202) 622–6453; or by mail to CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. The Fund will respond to Applicants' reporting, compliance or disbursement questions between the hours of 9 a.m. and 5 p.m. ET, starting the date of the publication of this NOFA through March 13, 2007 (for the FY 2007 funding round) and through March 11, 2008 (for the FY 2008 funding round) (one business day before the application deadline). The Fund will not respond to Applicants' reporting, compliance or disbursement telephone calls or e-mail inquiries that are received after 5 p.m. ET on March 13, 2007 until after the funding application deadline of March 15, 2007 for the FY 2007 funding round or after 5 p.m. ET on March 11, 2008 until after the funding application deadline of March 13, 2008 for the FY 2008 funding round.

2. *Cost sharing and matching fund requirements:* Not applicable.

3. *Prohibition against double funding:* No CDFI may receive a BEA Program award if it has:

(a) An application pending for assistance under the CDFI Program (12 CFR part 1805, *et seq.*);

(b) Directly received assistance from the Fund under the CDFI Program within the 12-month period prior to the date the Fund selected the Applicant to receive a BEA Program award; or

(c) Ever received assistance under the CDFI Program for the same activities for which it is seeking a BEA Program award.

An insured depository institution investor (and its affiliates and Subsidiaries) may not receive a BEA Program award in addition to a New Markets Tax Credit Program allocation for the same investment in a Community Development Entity, as defined at 26 U.S.C. 45D(c).

IV. Application and Submission Information

A. Address to Request Application Package

Applicants may submit applications under this NOFA in paper form (except as provided below for the Report of Transactions). Shortly following the publication of this NOFA, the Fund will make the FY 2007 BEA Program application materials available via Grants.gov. The Fund will make the FY 2008 application available via Grants.gov approximately 2 months prior to the end of the Assessment Period for the FY 2008 funding round (November 2007).

B. Application Content Requirements

Detailed application content requirements are found in the application related to this NOFA. Applicants must submit all materials described in and required by the application by the applicable deadlines. Applicants will not be afforded an opportunity to provide any missing materials or documentation. Additional information, including instructions relating to the submission of the application via Grants.gov and supporting documentation, is set forth in further detail in the application. Please note that, pursuant to OMB guidance (68 FR 38402), each Applicant must provide, as part of its application submission, a Dun and Bradstreet Data Universal Numbering System (DUNS) number. In addition, each application must include a valid and current Employer Identification Number (EIN), with a letter or other documentation from the Internal Revenue Service (IRS) confirming the EIN. Incomplete applications will be rejected and returned to the sender.

An Applicant may not submit more than one application in response to either the FY 2007 funding round or FY 2008 funding round.

C. Form of Application Submission

Applicants must submit applications under this NOFA via Grants.gov with certain required documentation via paper according to the instructions in the Application. Applications sent by facsimile or by e-mail will not be accepted. In order to submit an Application via Grants.gov, Applicants must complete a multi-step registration process. Applicants are encouraged to allow at least two to three weeks to complete the registration process.

Paper Applications: If an applicant is unable to submit an application through Grants.gov, it must submit to the Fund a request for a paper application using the BEA Program Paper Application Submission Form. The BEA Program Paper Application Submission Form may be obtained from the Fund's Web site at *http://www.cdfifund.gov* or the form may be requested by e-mail to *paper_request@cdfi.treas.gov* or by facsimile to (202) 622–7754. The request must be received by 5 p.m. ET on February 1, 2007 (for the FY 2007 Funding Round) or February 1, 2008 (for the FY 2008 Funding Round). The completed BEA Program Paper Application Submission Form should be directed to the attention of the Fund's Chief Information Officer and must be sent by facsimile to (202) 622–7754. These are not toll free numbers. Paper applications must be submitted in the format and with the number of copies specified in the application instructions.

MyCDFIFund Accounts: All Applicants must register User and Organization accounts in myCDFIFund, the Fund's Internet-based interface by the applicable Application deadline. Failure to register on MyCDFIFund could result in the Fund being unable to accept the application. As myCDFIFund is the Fund's primary means of communication with Applicants and Awardees, organizations must make sure that they update the contact information in their myCDFIFund accounts. For more information on myCDFIFund, please see the ''Frequently Asked Questions'' link posted at *https://www.cdfifund.gov/myCDFI/Help/Help.asp.*

D. Application Submission Dates and Times

1. *Grants. gov Applications:* The deadline for receipt of applications via Grants.gov for the FY 2007 funding round is 5 p.m. ET on March 15, 2007. The deadline for receipt of paper documentation at the BPD address specified below is March 19, 2007. The deadline for receipt of applications via Grants.gov for the FY 2008 funding round is 5 p.m. ET on March 13, 2008. The deadline for receipt of paper documentation at the BPD address specified below is March 17, 2008. Applications and other required documents and other attachments received after 5 p.m. ET on the applicable date will be rejected. Please note that the document submission deadlines in this NOFA and/or the funding application are strictly enforced. The Fund will not grant exceptions or waivers for late delivery of documents including, but not limited to, late delivery that is caused by third parties such as the United States Postal Service, couriers or overnight delivery services. Nor will the Fund afford Applicants the opportunity to provide missing documentation after said deadline(s).

2. *Paper applications:* Paper applications must be received in their entirety by the applicable time and date, including an original (i.e., not a photocopy or faxed copy) Applicant Information Form signed by the identified Authorized Representative, a letter or other documentation from the Internal Revenue Service confirming the Applicant's Employer Identification Number (EIN), and all other required paper attachments.

V. Intergovernmental Review

Not Applicable.

VI. Funding Restrictions

Not Applicable.

VII. Addresses

Paper documentation must be sent to: CDFI Fund Grants Manager, BEA Program, Bureau of Public Debt, 200 Third Street, Room 10, Parkersburg, WV 26101. The telephone number to be used in conjunction with overnight mailings to this address is (304) 480–5450. The Fund will not accept applications in its offices in Washington, DC. Applications and attachments received in the Fund's Washington, DC offices will be rejected and returned to the sender.

VIII. Application Review Information

A. Priority Factors

Priority Factors are the numeric values assigned to individual types of activity within a category of Qualified Activity. A Priority Factor represents the Fund's assessment of the degree of difficulty, the extent of innovation (including, for example, pricing), and the extent of benefits accruing to the Distressed Community for each type of activity. The Priority Factor works by multiplying the change in a Qualified Activity by its assigned Priority Factor to achieve a ''weighted value.'' This weighted value of the change would be multiplied by the applicable award percentage to yield the award amount for that particular activity. For purposes of this NOFA, the Fund is establishing Priority Factors for the Distressed Community Financing Activities category only, as follows:

Qualified activities	Priority factor
Affordable Housing Loans	3.0
Education Loans	3.0
Home Improvement Loans	3.0
Small Business Loans and related Project Investments	3.0
Affordable Housing Development Loans and related Project Investments	2.0
Commercial Real Estate Loans and related Project Investments	2.0

B. Award Percentages, Award Amounts, Selection Process

The Interim Rule describes the process for selecting Applicants to receive BEA Program awards and determining award amounts. Applicants will calculate and request an estimated award amount in accordance with a multiple step procedure that is outlined in the Interim Rule (at 12 CFR 1806.202). The Fund will use the Applicant's estimated award amount as the basis for calculating the actual award amount that an Applicant may receive. As outlined in the Interim Rule at 12 CFR 1806.203, the Fund will determine actual award amounts based on the availability of funds, increases in Qualified Activities from the Baseline Period to the Assessment Period, and each Applicant's priority ranking. In calculating the increase in Qualified Activities, the Fund will determine the eligibility of each transaction for which an Applicant has applied for a BEA Program award. In some cases, the actual award amount calculated by the Fund may not be the same as the estimated award amount requested by the Applicant.

In the CDFI Related Activities category (except for Equity Investments), if an Applicant is a CDFI, such estimated award amount will be equal to 18 percent of the increase in Qualified Activity for the category. If an Applicant is not a CDFI, such estimated award amount will be equal to 6 percent of the increase in Qualified Activity for the category. Notwithstanding the foregoing, the award percentage applicable to an Equity Investment, Equity-Like Loan, or Grant in a CDFI shall be 15 percent of the increase in Qualified Activity for the category. For the Distressed Community Financing Activities and Service Activities categories, if an Applicant is a CDFI, such estimated award amount will be equal to 9 percent of the weighted value of the increase in Qualified Activity for the category. If an Applicant is not a CDFI, such estimated award amount will be equal to 3 percent of the weighted value of the increase in Qualified Activity for the category.

If the amount of funds available during the funding round is insufficient for all estimated award amounts, Awardees will be selected based on the process described in the Interim Rule at 12 CFR 1806.203(b). This process gives funding priority to Applicants that undertake activities in the following order:

1. CDFI Related Activities;

2. Distressed Community Financing Activities, and

3. Service Activities.

Within each category, Applicants will be ranked according to the ratio of the actual award amount calculated by the Fund for the category to the total assets of the Applicant. Within the Distressed Community Financing category as well as the Service Activities category, Applicants that are certified CDFIs will be ranked first, and then Applicants that have carried out such Distressed Community Financing Activities and Service Activities in a Distressed Community that encompasses an Indian Reservation.

The Fund, in its sole discretion: (i) May adjust the estimated award amount that an Applicant may receive; (ii) may establish a maximum amount that may be awarded to an Applicant; and (iii) reserves the right to limit the amount of an award to any Applicant if the Fund deems it appropriate.

For purposes of calculating award disbursement amounts, the Fund will treat Qualified Activities with a total principal amount of less than $250,000 as fully disbursed. Awardees will have 12 months from the end of the Assessment Period to make disbursements for Qualified Activities and 18 months to submit to the Fund disbursement requests for the corresponding portion of their awards, after which the Fund will rescind and deobligate any outstanding award balance and said outstanding award balance will no longer be available to the Awardee.

The Fund reserves the right to change its eligibility and evaluation criteria and procedures, if the Fund deems it appropriate; if said changes materially affect the Fund's award decisions, the Fund will provide information regarding the changes through the Fund's Web site.

There is no right to appeal the Fund's award decisions. The Fund's award decisions are final.

IX. Award Administration Information

A. Notice of Award

The Fund will signify its selection of an Applicant as an Awardee by delivering a signed Notice of Award and Award Agreement to the Applicant. The Notice of Award will contain the general terms and conditions underlying the Fund's provision of an award including, but not limited to, the requirement that an Awardee and the Fund enter into an Award Agreement. The Applicant must execute the Notice of Award and return it to the Fund along with the Award Agreement. The Fund reserves the right, in its sole discretion, to rescind its award and Notice of Award if the Awardee fails to return the Notice of Award or Award Agreement, signed by the Authorized Representative of the Awardee, along with any other requested documentation, by the deadline set by the Fund.

By executing a Notice of Award, the Awardee agrees that, if information (including administrative errors) comes to the attention of the Fund that either adversely affects the Awardee's eligibility for an award, or adversely affects the Fund's evaluation of the Awardee's application, or indicates fraud or mismanagement on the part of the Awardee, the Fund may, in its discretion and without advance notice to the Awardee, terminate the Notice of Award or take such other actions as it deems appropriate.

1. *Failure to meet reporting requirements:* If an Applicant, or an entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund) is a prior Fund awardee or allocatee under any Fund program and is not current on the reporting requirements set forth in the previously executed assistance, award or allocation agreement(s), as of the date of the Notice of Award, the Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of award proceeds, until said prior awardee or allocatee is current on the reporting requirements in the previously executed assistance, award or allocation agreement(s). Please note that the Fund only acknowledges the receipt of reports that are complete. As such, incomplete reports or reports that are deficient of required elements will not be recognized as having been received. If said prior awardee or allocatee is unable to meet this requirement within the timeframe set by the Fund, the Fund reserves the right, in its sole discretion, to terminate and rescind the Notice of Award and the award made under this NOFA.

2. *Pending resolution of noncompliance:* If an Applicant is a prior Fund awardee or allocatee under any Fund program and if: (i) It has submitted complete and timely reports to the Fund that demonstrate noncompliance with a previous assistance, award, or allocation agreement, and (ii) the Fund has yet to make a final determination regarding whether or not the entity is in default of its previous assistance, award, or allocation agreement, the Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of award proceeds, pending full resolution, in the sole determination of the Fund, of the noncompliance. Further, if another entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund), is a prior Fund awardee or allocatee under any Fund program, and if such entity: (i) Has submitted complete and timely reports to the Fund that demonstrate noncompliance with a previous assistance, award, or allocation agreement, and (ii) the Fund has yet to make a final determination as to whether the entity is in default of its previous assistance, award, or allocation agreement, the Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of award proceeds pending full resolution, in the sole determination of the Fund, of the noncompliance. If said prior awardee or allocatee is unable to meet this requirement, in the sole determination of the Fund, the Fund reserves the right, in its sole discretion, to terminate and rescind the Notice of Award and the award made under this NOFA.

3. *Default status:* If, at any time prior to entering into an Award Agreement under this NOFA, the Fund has made a final determination that an Applicant that is a prior Fund awardee or allocatee under any Fund program is in default of a previously executed assistance, award, or allocation agreement(s) and has provided written notification of such determination to the Applicant, the Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of award proceeds until said prior awardee or allocatee has submitted a complete and timely report demonstrating full compliance with said agreement within a timeframe set by the Fund. Further, if, at any time prior to entering into an Award Agreement under this NOFA, the Fund has made a final determination that another entity which Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund), is a prior Fund awardee or allocatee under any Fund program, and is in default of a previously executed assistance, allocation or award agreement(s) and has provided written notification of such determination to the defaulting entity, the Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of award proceeds until said prior awardee or allocatee has submitted a complete and timely report demonstrating full compliance with said agreement within a timeframe set by the Fund. If said prior awardee or allocatee is unable to meet this requirement, the Fund reserves the right, in its sole discretion, to terminate and rescind the Notice of Award and the award made under this NOFA.

4. *Termination in default:* If, within the 12-month period prior to entering into an Award Agreement under this NOFA, the Fund has made a final

determination that an Applicant that is a prior Fund awardee or allocatee under any Fund program whose award or allocation terminated in default of such prior agreement and the Fund has provided written notification of such determination to such organization, the Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of award proceeds. Further, if, within the 12-month period prior to entering into an Award Agreement under this NOFA, the Fund has made a final determination that another entity which Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund), is a prior Fund awardee or allocatee under any Fund program, and whose award or allocation terminated in default of such prior agreement(s) and has provided written notification of such determination to the defaulting entity, the Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of award proceeds.

B. Award Agreement

After the Fund selects an Awardee, the Fund and the Awardee will enter into an Award Agreement. The Award Agreement shall provide that an Awardee shall: (i) Carry out its Qualified Activities in accordance with applicable law, the approved application, and all other applicable requirements; (ii) comply with such other terms and conditions (including recordkeeping and reporting requirements) that the Fund may establish; and (iii) not receive any monies until the Fund has determined that the Awardee has fulfilled all applicable requirements.

C. Administrative and National Policy Requirements

Not applicable.

D. Reporting and Accounting

Not applicable.

X. Agency Contacts

The Fund will respond to questions and provide support concerning this NOFA and the funding application between the hours of 9 a.m. and 5 p.m. ET, starting the date of the publication of this NOFA through close of business March 13, 2007 for the FY 2007 funding round (one business day before the application deadline) and through close of business March 11, 2008 for the FY 2008 funding round (one business day before the application deadline).

The Fund will not respond to questions or provide support concerning the application after 5 p.m. ET on March 13, 2007 for the FY 2007 funding round, until after the application deadline of March 15, 2007. The Fund will not respond to questions or provide support concerning the application after 5 p.m. ET on March 11, 2008 for the FY 2008 funding round, until after the application deadline of March 13, 2008.

Applications and other information regarding the Fund and its programs may be downloaded and printed from the Fund's Web site at *http://www.cdfifund.gov.* The Fund will post on its website responses to questions of general applicability regarding the BEA Program.

A. *Information Technology Support:* Technical support can be obtained by calling (202) 622–2455 or by e-mail at *ithelpdesk@cdfi.treas.gov.* People who have visual or mobility impairments that prevent them from creating a Distressed Community map using the Fund's website should call (202) 622–2455 for assistance. These are not toll free numbers.

B. *Programmatic Support:* If you have any questions about the programmatic requirements of this NOFA, contact the Fund's Program office by e-mail at *cdfihelp@cdfi.treas.gov,* by telephone at (202) 622–6355, by facsimile at (202) 622–7754, or by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll-free numbers.

C. *Grants Management Support:* If you have any questions regarding the administrative requirements of this NOFA, including questions regarding submission requirements, contact the Fund's Grants Manager by e-mail at *grantsmanagement@cdfi.treas.gov,* by telephone at (202) 622–8226, by facsimile at (202) 622–6453, or by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll free numbers.

D. *Compliance and Monitoring Support:* If you have any questions regarding the compliance requirements of this NOFA, including questions regarding performance on prior awards, contact the Fund's Compliance Manager by e-mail at *cme@cdfi.treas.gov,* by telephone at (202) 622–8226, by facsimile at (202) 622–6453, or by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll free numbers.

E. *Legal Counsel Support:* If you have any questions or matters that you believe require response by the Fund's Office of Legal Counsel, please refer to the document titled ''How to Request a Legal Review,'' found on the Fund's Web site at *http://www.cdfifund.gov.* Further, if you wish to review the Award Agreement form document from a prior funding round, you may find it posted on the Fund's website (please note that there may be revisions to the Award Agreement that will be used for Awardees under this NOFA and thus the sample document on the Fund's website should not be relied upon for purposes of this NOFA).

F. *Communication with the CDFI Fund:* The Fund will use its myCDFIFund Internet interface to communicate with Applicants and Awardees under this NOFA. Awardees must use myCDFIFund to submit required reports. The Fund will notify Awardees by e-mail using the addresses maintained in each Awardee's myCDFIFund account. Therefore, the Awardee and any Subsidiaries, signatories, and Affiliates must maintain accurate contact information (including contact person and authorized representative, e-mail addresses, fax numbers, phone numbers, and office addresses) in their myCDFIFund account(s). For more information about myCDFIFund, please see the Help documents posted at *https://www.cdfifund.gov/myCDFI/Help/Help.asp.*

Authority: 12 U.S.C. 1834a, 4703, 4703 note, 4713; 12 CFR part 1806.

Dated: December 20, 2006.

Peter Dugas,

Acting Director, Community Development Financial Institutions Fund.

[FR Doc. E6–22334 Filed 12–29–06; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Application and Renewal Fees Imposed on Surety Companies and Reinsuring Companies; Increase in Fees Imposed

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

SUMMARY: Effective December 31, 2006, The Department of the Treasury, Financial Management Service, is increasing the fees it imposes on and collects from surety companies and reinsuring companies.

FOR FURTHER INFORMATION CONTACT: Surety Board Branch at (202) 874–6765.

SUPPLEMENTARY INFORMATION: The fees imposed and collected, as referred to in 31 CFR 223.22, cover the costs incurred

by the Government for services performed relative to qualifying corporate sureties to write Federal business. These fees are determined in accordance with the Office of Management and Budget Circular A–25, As amended. The change in fees is the result of a thorough analysis of costs associated with the Surety Bond Branch.

The new fee rate schedule is as follows:

(1) Examination of a company's application for a Certificate of Authority as an acceptable surety or as an acceptable reinsuring company on Federal bonds—$8,025.

(2) Determination of a company's continued qualification for annual renewal of its Certificate of Authority—$4,710.

(3) Examination of a company's application for recognition as an Admitted Reinsurer (except on excess risks running to the United States)—$2,835.

(4) Determination of a company's continued qualification for annual renewal of its authority as an Admitted Reinsurer—$2,010.

Questions concerning this notice should be directed to the Surety Bond Branch, Financial Accounting and Service Division, Financial Management Service, Department of the Treasury, 3700 East West Highway, Room 6F01, Hyattsville, MD 20782, Telephone (202) 874–6850.

Dated: December 21, 2006.

Janice P. Lucas,

Assistant Commissioner, Financial Operations, Financial Management Service.

[FR Doc. 06–9948 Filed 12–29–06; 8:45 am]

BILLING CODE 4810–35–M

Corrections

Federal Register

Vol. 72, No. 1

Wednesday, January 3, 2007

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 50 and 380

[Docket No. RM06–12–000; Order No. 689]

Regulations for Filing Applications for Permits to Site Interstate Electric Transmission Facilities

Correction

In rule document E6–20001 beginning on page 69440 in the issue of Friday, December 1, 2006, make the following correction:

On page 69440, in the second column, under the **DATES** heading, in the second line, ''February 2, 2007'' should read ''January 30, 2007''.

[FR Doc. Z6–20001 Filed 12–29–06; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,

January 3, 2007

Part II

Environmental Protection Agency

40 CFR Part 52

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Update to Materials Incorporated by Reference; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA200–4201; FRL–8249–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Notice of administrative change.

SUMMARY: EPA is updating the materials submitted by Pennsylvania that are incorporated by reference (IBR) into the State implementation plan (SIP). The regulations affected by this update have been previously submitted by the Pennsylvania Department of Environmental Protection and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the Regional Office.

EFFECTIVE DATE: This action is effective January 3, 2007.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, EPA Headquarters Library, Room Number 3334, EPA West Building, 1301 Constitution Ave., NW., Washington, DC 20460, and the National Archives and Records Administration. If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number: (202) 566–1742; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 814–2108 or by e-mail at *frankford.harold@epa.gov*.

SUPPLEMENTARY INFORMATION: The SIP is a living document which the State revises as necessary to address the unique air pollution problems. Therefore, EPA, from time to time must take action on SIP revisions containing new and/or revised regulations to make them part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997 **Federal Register** document. On February 25, 2005 (70 FR 9450), EPA published a **Federal Register** beginning the new IBR procedure for Pennsylvania. In this document, EPA is doing the following:

1. Announcing the update to the IBR material as of November 1, 2006.

2. Making corrections to the following entries listed in the paragraph 52.2020(c)(1) chart, as described below:

a. Title 25, Sections 121.1 and 145.42—In the ''Additional explanation/§ 52.2063 citation'' column, text is added referring to the SIP-effective date of the revised rules.

b. Title 25, Sections 129.201 through 129.205 and Chapter 145, subsections B and C—In the ''Additional explanation/§ 52.2063 citation'' column, text is added referring to the SIP-effective date of the new rules.

c. Title 25, Sections 129.54, 129.59, 129.60, 129.61, and 129.68—In the ''EPA approval date'' column, the EPA approval date and **Federal Register** page citation are revised.

d. Title 25, Chapter 130, Subchapters A and B—In the ''Additional explanation/§ 52.2063 citation'' column, the text referring to the SIP-effective date is removed from all entries.

e. Title 67, Chapters 175 and 177—In the State citation column, the word ''Section'' is added before all numerical entries.

3. Making corrections to the paragraph 52.2020(d)(1) chart, as described below:

a. The title of the second column is revised from ''Permit no.'' to ''Permit number.''

b. Entry for the Hercules Cement Company—The permit number is revised.

Pennsylvania Power and Light Co. (PP&L)–Montour—The permit number is revised.

c. Entries for the Tennessee Gas Pipeline Company, Stations 321 and 219–In the ''Additional explanation/§ 52.2063 citation'' column, the text referring to the SIP-effective date is removed.

d. Entry for the Tennessee Gas Pipeline Corporation—Buck Township—The entry in the ''Name of source'' column is revised to read, ''Transcontinental Gas Pipeline Corporation-Buck Township.''

e. Entry for Alcoa Extrusion, Inc.—The state effective date is revised.

f. Entry for Stoney Creek Technologies, LLC—The permit number is revised.

g. Entry for Texas Eastern Transmission Corporation (Dauphin County)—The permit number is revised.

h. Entry for United Refining Company—The state effective date is revised.

i. Entries for Waste Management Disposal Services of Pennsylvania (Pottstown Landfill), Waste Management Disposal Services of PA, Inc., and Armstrong World Industries, Inc.—The citation in the ''Additional explanation/§ 52.2063 citation'' column is revised.

4. Making corrections to the following entries listed in the paragraph 52.2020(e)(1) chart, as described below:

a. Entry for Mobile Budgets for Post-1996 and 2005 attainment plans for the Philadelphia-Wilmington-Trenton 1–Hour Ozone Nonattaiment Area—The revised entry adds a date and **Federal Register** citation, inadvertently omitted in the February 25, 2005 **Federal Register** document, in which EPA approved revisions to these mobile budgets.

b. Entry for Ozone Maintenance Plan, Reading Area (Berks County)—The revised entry adds a date and **Federal Register** citation, inadvertently omitted in the February 25, 2005 **Federal Register** document, in which EPA approved revisions to this ozone maintenance plan.

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation, and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect chart entries.

III. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Pennsylvania SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this ''Identification of plan'' reorganization update action for Pennsylvania.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 21, 2006.

William T. Wisniewski,

Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority for citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

■ 2. Section 52.2020 is amended by revising paragraphs (b), (c), (d), and (e) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(b) Incorporation by reference.

(1) Material listed as incorporated by reference in paragraphs (c) and (d) was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates on or after November 1, 2006 will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region III certifies that the rules/regulations provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of November 1, 2006.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region III Office at 1650 Arch Street, Philadelphia, PA 19103; the EPA, Air and Radiation Docket and Information Center, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(c) *EPA-Approved Regulations*

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Title 25.—Environmental Protection Article III.—Air Resources				
Chapter 121—General Provisions				
Section 121.1	Definitions	12/11/04	9/29/06, 71 FR 57428	Revised; SIP-effective date is 10/30/06.
Section 121.2	Purpose	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Section 121.3	Applicability	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Section 121.4	Regional Organization of the Department.	5/23/92	12/22/94, 59 FR 65971	(c)(94).
Section 121.7	Prohibition of Air Pollution	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Section 121.8	Compliance responsibilities	8/13/77	12/17/79, 44 FR 73031	(c)(21); correction published 8/22/80, (45 FR 56060).
Section 121.9	Circumvention	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Section 121.10	Existing orders	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Section 121.11	Severability clause	3/20/72	5/31/72, 37 FR 10842	(c)(1); no longer in PA DEP rules.
Chapter 123—Standards for Contaminants				
Fugitive Emissions				
Section 123.1(a) through (c).	Prohibition of certain fugitive emissions.	8/29/77	12/17/79, 44 FR 73031	(c)(21); Paragraph 123.1(d) is not in the SIP.
Section 123.2	Fugitive particulate matter	8/13/83	7/27/84, 49 FR 30183	(c)(60).
Particulate Matter Emissions				
Section 123.11	Combustion units	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Appendix A [Graph]	Particulate Matter—Combustion Units.	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Section 123.12	Incinerators	3/20/72	5/31/72, 37 10842	(c)(1).
Section 123.13(a) through (c).	Processes	8/27/80	11/13/81, 46 FR 55971	(c)(39); paragraph 123.13(d) is not in the SIP.
Appendix B [Graph]	Particulate Matter—Processes Listed in Table 1.	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Appendix C [Graph]	Particulate Matter—Processes Not Listed in Table 1.	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Sulfur Compound Emissions				
Section 123.21	General	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Section 123.22	Combustion units [General provisions—air basins and non-air basins].	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Section 123.22(a)	Combustion units—non air basins	8/1/79	8/18/81, 46 FR 43423	(c)(36); approved as part of the control strategy for the Armstrong County sulfur dioxide nonattainment area.
Section 123.22(b)	Combustion units—Erie Air Basin	8/1/79	8/8/79, 44 FR 46465	(c)(20); correction published 1/23/80, (45 FR 5303).
Section 123.22(c)	Combustion units—Southeast PA Air Basin.	10/1/78	6/4/79, 44 FR 31980	(c)(18).
Section 123.22(c)	Combustion units—Upper Beaver Valley Air Basin.	8/21/82	7/5/83, 48 FR 30630	(c)(53).
Section 123.22(d)	Combustion units—Lower Beaver Valley Air Basin.	1/1/81	12/16/81, 46 FR 61267	(c)(40).
Figure 4 [Graph]	Sulfur Oxides—Combustion Units	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Section 123.24	Primary zinc smelters	8/11/75	4/30/76, 41 FR 18077	(c)(14).
Section 123.25	Monitoring requirements	10/27/90	6/30/93, 58 FR 34911	(c)(81).
Odor Emissions				
Section 123.31	Limitations	3/20/72	5/31/72, 37 FR 10842	(c)(1); SIP version of Section 123.31 is different from State version.
Visible Emissions				
Section 123.41	Limitations	3/20/72	5/31/72, 37 FR 10842	(c)(1).

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Section 123.42 (Except 123.42(4).	Exceptions	3/20/72	5/31/72, 37 FR 10842 ...	(c)(1); Paragraph is paragraph declared not 123.42(4)) in SIP at (c)(21).
Section 123.43	Measuring Techniques	3/20/72	5/31/72, 37 FR 10842 ...	(c)(1).
Section 123.44	Limitations of visible fugitive air contaminants from operation of any coke oven battery.	12/27/97	6/11/02, 67 FR 39854 ...	(c)(189).
Section 123.45	Alternative opacity limitations	6/20/81	1/19/83, 48 FR 2319	(c)(48).
Appendix D [Chart]	Alternate Opacity Limitation—Application.	6/20/81	1/19/83, 48 FR 2319	(c)(48).
Section 123.46	Monitoring requirements	6/20/81	1/19/83, 48 FR 2319	(c)(48).
Nitrogen Compound Emissions				
Section 123.51	Monitoring requirements	10/20/90	9/23/92, 57 FR 43905 ...	(c)(74).
NO_X Allowance Requirements				
Section 123.101	Purpose	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.102	Source NO_X allowance requirements and NO_X allowance control period.	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.103	General NO_X allowance provisions	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.104	Source authorized account representative requirements.	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.105	NATS provisions	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.106	NO_X allowance transfer protocol	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.107	NO_X allowance transfer procedures	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.108	Source emissions monitoring requirements.	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.109	Source emissions reporting requirements.	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.110	Source compliance requirements	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.111	Failure to meet source compliance requirements.	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.112	Source operating permit provision requirements.	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.113	Source recordkeeping requirements	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.114	General NO_X allocation provisions	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.115	Initial NO_X allowance NO_X allocations.	3/11/00	6/6/00, 65 FR 35840	(c)(145).
Section 123.116	Source opt-in provisions	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.117	New NO_X affected source provisions	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.118	Emission reduction credit provisions	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.119	Bonus NO_X allowance awards	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Section 123.120	Audit	11/1/97	6/6/00, 65 FR 35840	(c)(145).
Appendix E [Chart]	Appendix E [NO_X Allowances Chart]	3/11/00	6/6/00, 65 FR 35840	(c)(145).
Chapter 126—Standard for Motor Fuels				
Subchapter A.—Oxygenate Content of Gasoline				
Section 126.101	General	8/19/95	12/17/99, 64 FR 70589	(c)(142).
Section 126.102	Sampling and testing	8/19/95	2/17/99, 64 FR 70589 ...	(c)(142).
Section 126.103	Recordkeeping and reporting	8/19/95	12/17/99, 64 FR 70589	(c)(142).
Section 126.104	Labeling requirements	8/19/95	12/17/99, 64 FR 70589	(c)(142).
Subchapter C.—Gasoline Volatility Requirements				
Section 126.301 (a) through (c).	Compliant fuel requirement	11/1/97	6/8/98, 63 FR 31116	(c)(131).
Section 126.302 (Except Paragraph (a)(6) pertaining to RFG).	Recordkeeping and reporting	11/1/97	6/8/98, 63 FR 31116	(c)(131).
Section 126.303(a)	Compliance and test methods	11/1/97	6/8/98, 63 FR 31116	(c)(131).
Subchapter D.—Motor Vehicle Emissions Control Program				
General Provisions				
Section 126.401	Purpose	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Section 126.402	NLEV scope and applicability	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).
Pennsylvania Clean Vehicles Program				
Section 126.411	General requirements	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).
Section 126.412	Emission requirements	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).
Section 126.413	Exemptions	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).
Applicable Motor Vehicle Testing				
Section 126.421	New motor vehicle certification testing.	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).
Section 126.422	New motor vehicle compliance testing.	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).
Section 126.423	Assembly line testing	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).
Section 126.424	In-use motor vehicle enforcement testing.	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).
Section 126.425	In-use surveillance testing	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).
Motor Vehicle Manufacturers's Obligations				
Section 126.431	Warranty and recall	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).
Section 126.432	Reporting requirements	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).
Motor Vehicle Dealer Responsibilities				
Section 126.441	Responsibilities of motor vehicle dealers.	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).
Chapter 127—Construction, Modification, Reactivation, and Operation of Sources				
Subchapter A.—General				
Section 127.1	Purpose	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.3	Operational flexibility	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Subchapter B.—Plan Approval Requirements				
Section 127.11	Plan approval requirements	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.11a.	Reactivation of sources	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.12	Content of applications	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.12a	Compliance review	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.12b	Plan approval terms and conditions	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.12c	Plan approval reporting requirements	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.13	Extensions	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.13a	Plan approval changes for cause	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.13b	Denial of Plan approval application	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.13c	Notice of basis for certain plan approval decisions.	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.14	Exemptions	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.25	Compliance requirement	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.32	Transfer of plan approvals	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.35	Maximum achievable control technology standards for hazardous air pollutants.	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.36	Health risk-based emission standards and operating practice requirements.	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.44	Public Notice	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.45	Contents of notice	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.46	Filing protests	8/13/83	7/27/84, 49 FR 30183	(c)(60).
Section 127.47	Consideration of protests	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.48	Conferences and hearings	8/13/83	7/27/84, 49 FR 30183	(c)(60).
Section 127.49	Conference or hearing procedure	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.50	Conference or hearing record	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.51	Plan approval disposition	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Subchapter D.—Prevention of Significant Deterioration of Air Quality				
Section 127.81	Purpose	6/18/83	8/21/84, 49 FR 33127	(c)(57).
Section 127.82	Scope	6/18/83	8/21/84 49, FR 33127	(c)(57).

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Section 127.83	Adoption of Program	6/18/83	8/21/84, 49 FR 33127 ...	(c)(57).
Subchapter E.—New Source Review				
Section 127.201	General requirements	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Section 127.202	Effective date	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Section 127.203	Facilities subject to special permit requirements.	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Section 127.204	Emissions subject to this subchapter	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Section 127.205	Special permit requirements	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Section 127.206	ERC general requirements	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Section 127.207	ERC generation and creation	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Section 127.208	ERC use and transfer requirements	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Section 127.209	ERC registry system	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Section 127.210	Offset ratios	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Section 127.211	Applicability determination	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Section 127.212	Portable facilities	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Section 127.213	Construction and demolition	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Section 127.214	Exemption	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Section 127.215	Reactivation	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Section 127.216	Circumvention	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Section 127.217	Clean Air Act Titles III–V applicability	1/15/94	12/9/97, 62 FR 64722 ...	(c)(107).
Subchapter F.—Operating Permit Requirements				
General				
Section 127.401	Scope	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.402	General provisions	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.403	Permitting of sources operating lawfully without a permit.	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.404	Compliance schedule for repermitting	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Permit Applications				
Section 127.411	Content of applications	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.412	Compliance review forms	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.413	Municipal notification	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.414	Supplemental information	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Review of Applications				
Section 127.421	Review of Applications	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.422	Denial of permits	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.423	Notice of basis for certain operating permit decisions.	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.424	Public notice	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.425	Contents of notice	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.426	Filing protests	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.427	Consideration of protest	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.428	Conferences and hearings	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.429	Conference or hearing procedure	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.430	Conference or hearing record	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.431	Operating permit disposition	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Operating Permit Conditions				
Section 127.441	Operating permit terms and conditions.	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.442	Reporting requirements	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.443	Operating permit requirements	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.444	Compliance requirements	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.445	Operating permit compliance schedules.	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.446	Operating permit duration	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.447	Alternate operating scenarios	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.448	Emissions trading at facilities with Federally enforceable emissions cap.	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.449	De minimis emission increases	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).

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State citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Section 127.450	Administrative operating permit amendments.	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Operating Permit Modifications				
Section 127.461	Operating permit changes for cause	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.462	Minor operating permit modifications	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.463	Operating permit revisions to incorporate applicable standards.	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.464	Transfer of operating permits	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Subchapter H.—General Plan Approvals and Operating Permits				
General				
Section 127.601	Scope	11/26/94	7/30/96, 61 FR 39494 ...	(c)(111).
Issuance of General Plan Approvals and General Operating Permits				
Section 127.611	General plan approval and general operating permits.	11/26/94	7/30/96, 61 FR 39494 ...	(c)(111).
Section 127.612	Public notice and review period	11/26/94	7/30/96, 61 FR 39494 ...	(c)(111).
Use of General Plan Approvals and Permits				
Section 127.621	Application for use of general plan approvals and general operating permits.	11/26/94	7/30/96, 61 FR 39494 ...	(c)(111).
Section 127.622	Compliance with general plan approvals and general operating permits.	11/26/94	7/30/96, 61 FR 39494 ...	(c)(111).
Subchapter I.—Plan Approval and Operating Permit Fees				
Section 127.701	General provisions	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.702	Plan approval fees	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.703	Operating permit fees under Subchapter F.	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Section 127.707	Failure to pay fee	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(C).
Subchapter J.—General Conformity				
Section 127.801	Purpose	11/9/96	9/29/97, 62 FR 50870 ...	(c)(126).
Section 127.802	Adoption of Standards	11/9/96	9/29/97, 62 FR 50870 ...	(c)(126).
Chapter 129—Standards for Sources				
Miscellaneous Sources				
Section 129.11	Nitric acid plants	3/20/72	5/31/72, 37 FR 10842 ...	(c)(1).
Section 129.12	Sulfuric acid plants	3/20/72	5/31/72, 37 FR 10842 ...	(c)(1).
Section 129.13	Sulfur recovery plants	3/20/72	5/31/72, 37 FR 10842 ...	(c)(1).
APPENDIX A	Allowable emissions, sulfur oxides—sulfur recovery plants.	4/23/94	3/23/98, 63 FR 13789 ...	(c)(129).
Section 129.14	Open burning operations	8/9/76	8/19/80, 45 FR 55178 ...	(c)(33).
Section 129.15	Coke pushing operations	8/29/77 12/31/77	12/17/79, 44 FR 73031	(c)(21); correction published 8/22/80 45 FR 56060.
Section 129.16	Door maintenance, adjustment and replacement practices.	12/12/77	7/17/79, 44 FR 41429 ...	(c)(19).
Section 129.18	Municipal waste incinerators	10/27/90	6/30/93, 58 FR 34911 ...	(c)(81).
Sources of VOCs				
Section 129.52	Surface coating processes	6/10/00	7/20/01, 66 FR 37908 ...	(c)(152).
Section 129.54	Seasonal operation of auxiliary incineration equipment.	8/3/91	5/13/93, 58 FR 28362 ...	(c)(79).
Section 129.55	Petroleum refineries—specific sources.	6/20/81	1/19/83, 48 FR 2319	(c)(48).
Section 129.56	Storage tanks greater than 40,000 gallons capacity containing VOCs.	9/5/98	7/26/00, 65 FR 45920 ...	(c)(147).

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Section 129.57	Storage tanks less than or equal to 40,000 gallons capacity containing VOCs.	6/20/81	1/19/83, 48 FR 2319	(c)(48).
Section 129.58	Petroleum refineries-fugitive sources	8/13/83	7/27/84, 49 FR 30183	(c)(60).
Section 129.59	Bulk gasoline terminals	8/3/91	5/13/93, 58 FR 28362	(c)(79).
Section 129.60	Bulk gasoline plants	8/3/91	5/13/93, 58 FR 28362	(c)(79).
Section 129.61	Small gasoline storage tank control (Stage I control).	8/3/91	5/13/93, 58 FR 28362	(c)(79).
Section 129.62	General standards for bulk gasoline terminals, bulk gasoline plants, and small gasoline storage tanks.	5/23/94	12/22/94, 59 FR 65971	(c)(94).
Section 129.63	Degreasing operations	12/22/01	1/16/03, 68 FR 2208	(c)(195)(i)(B)(*2*).
Section 129.64	Cutback asphalt paving	8/13/83	7/27/84, 49 FR 30183	(c)(60).
Section 129.65	Ethylene production plants	8/1/79	5/20/80	(c)(22).
Section 129.66	Compliance schedules and final compliance dates.	5/23/92	12/22/94, 59 FR 65971	(c)(94).
Section 129.67	Graphic arts systems.	9/5/98	7/26/00, 65 FR 45920	(c)(147).
Section 129.68	Manufacture of synthesized pharmaceutical products.	8/3/91	5/13/93, 58 FR 28362	(c)(79).
Section 129.69	Manufacture of pneumatic rubber tires.	5/23/92	12/22/94, 59 FR 65971	(c)(94).
Section 129.71	Synthetic organic chemical and polymer manufacturing—fugitive sources.	5/23/92	12/22/94, 59 FR 65971	(c)(94).
Section 129.72	Manufacture of surface active agents	5/23/92	12/22/94, 59 FR 65971	(c)(94).
Section 129.73	Aerospace manufacturing and rework.	4/10/99	6/25/01, 66 FR 33645	(c)(155).
Section 129.75	Mobile equipment repair and refinishing.	11/27/99	8/14/00, 65 FR 49501	(c)(148).
Mobile Sources				
Section 129.81	Organic liquid cargo vessel loading and ballasting.	9/28/91	9/28/93, 58 FR 50517	(c)(84).
Section 129.82	Control of VOCs from gasoline dispensing facilities (Stage II).	4/10/99	5/21/01, 66 FR 27875	(c)(153).
Stationary Sources of NO_X and VOCs				
Section 129.91	Control of major sources of NO_X and VOCs.	6/10/00	7/20/01, 66 FR 37908	(c)(152).
Section 129.92	RACT proposal requirements	4/23/94	3/23/98, 63 FR 13789	(c)(129).
Section 129.93 [Except for 129.93(c)(6 & 7)].	Presumptive RACT emission limitations.	4/23/94	3/23/98, 63 FR 13789	(c)(129).
Section 129.94	NO_X RACT emission averaging general requirements.	4/23/94	3/23/98, 63 FR 13789	(c)(129).
Section 129.95	Recordkeeping.	4/23/94	3/23/98, 63 FR 13789	(c)(129).
Wood Furniture Manufacturing Operations				
Section 129.101	General provisions and applicability	6/10/00	7/20/01, 66 FR 37908	(c)(152).
Section 129.102	Emission standards	6/10/00	7/20/01, 66 FR 37908	(c)(152).
Section 129.103	Work practice standards	6/10/00	7/20/01, 66 FR 37908	(c)(152).
Section 129.104	Compliance procedures and monitoring requirements.	6/10/00	7/20/01, 66 FR 37908	(c)(152).
Section 129.105	Recordkeeping requirements	6/10/00	7/20/01, 66 FR 37908	(c)(152).
Section 129.106	Reporting requirements	6/10/00	7/20/01, 66 FR 37908	(c)(152).
Section 129.107	Special provisions for facilities using an emissions averaging approach.	6/10/00	7/20/01, 66 FR 37908	(c)(152).
Additional NO_X Requirements				
Section 129.201	Boilers	12/11/04	9/29/06, 71 FR 57428	SIP-effective date is 10/30/06.
Section 129.202	Stationary combustion turbines	12/11/04	9/29/06, 71 FR 57428	SIP-effective date is 10/30/06.
Section 129.203	Stationary internal combustion engines.	12/11/04	9/29/06, 71 FR 57428	SIP-effective date is 10/30/06.
Section 129.204	Emission accountability	12/11/04	9/29/06, 71 FR 57428	SIP-effective date is 10/30/06.
Section 129.205	Zero emission renewable energy production credit.	12/11/04	9/29/06, 71 FR 57428	SIP-effective date is 10/30/06.

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Chapter 130—Standards for Products				
Subchapter A.—Portable Fuel Containers				
Section 130.101	Applicability	10/5/02	12/8/04, 69 FR 70893 ...	(c)(229).
Section 130.102	Definitions	10/5/02	12/8/04, 69 FR 70893 ...	(c)(229).
Section 130.103	Performance Standards for portable fuel containers and spill-proof spouts.	10/5/02	12/8/04, 69 FR 70893 ...	(c)(229).
Section 130.104	Exemptions	10/5/02	12/8/04, 69 FR 70893 ...	(c)(229).
Section 130.105	Innovative products	10/5/02	12/8/04, 69 FR 70893 ...	(c)(229).
Section 130.106	Administrative requirements	10/5/02	12/8/04, 69 FR 70893 ...	(c)(229).
Section 130.107	Variances	10/5/02	12/8/04, 69 FR 70893 ...	(c)(229).
Section 130.108	Test procedures	10/5/02	12/8/04, 69 FR 70893 ...	(c)(229).
Subchapter B.—Consumer Products				
General Provisions				
Section 130.201.	Applicability	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.202.	Definitions	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Standard				
Section 130.211.	Table of standards	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.212.	Products diluted prior to use	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.213.	Products registered under FIFRA	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.214.	Requirements for charcoal lighter materials.	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.215.	Requirements for aerosol adhesives	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.216.	Requirements for floor wax strippers	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Exemptions				
Section 130.331.	Products for shipment and use outside this Commonwealth.	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.332.	Antiperspirants and deodorants	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.333.	LVP–VOC	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.334.	Products registered under FIFRA	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.335.	Air fresheners	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.336	Adhesives	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.337	Bait station insecticides	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Innovative Products				
Section 130.351	Innovative products exemption	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.352	Request for exemption	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Administrative Requirements				
Section 130.371	Code-dating	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.372	Most restrictive limit	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.373	Additional labeling requirements for aerosol adhesives.	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Reporting Requirements				
Section 130.391	Required reporting of information to the Department.	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.392	Confidentiality	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Variances				
Section 130.411	Application for variance	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.412	Variance orders	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.413	Termination of variance	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Section 130.414	Modification of variance	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).
Test Methods				
Section 130.431	Testing for compliance	10/5/02	12/8/04, 69 FR 70895 ...	(c)(230).

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ACP for Consumer Products				
Section 130.451	Alternative methods of compliance	10/5/02	12/8/04, 69 FR 70895	(c)(230).
Section 130.452	Exemption	10/5/02	12/8/04, 69 FR 70895	(c)(230).
Section 130.453	Request for exemption	10/5/02	12/8/04, 69 FR 70895	(c)(230).
Section 130.454	Application for an ACP	10/5/02	12/8/04, 69 FR 70895	(c)(230).
Section 130.455	Recordkeeping and availability of requested information.	10/5/02	12/8/04, 69 FR 70895	(c)(230).
Section 130.456	Surplus reductions and surplus trading.	10/5/02	12/8/04, 69 FR 70895	(c)(230).
Section 130.457	Limited-use surplus reduction credits for early reformulations of ACP products.	10/5/02	12/8/04, 69 FR 70895	(c)(230).
Section 130.458	Reconciliation of shortfalls	10/5/02	12/8/04, 69 FR 70895	(c)(230).
Section 130.459	Notification of modifications to an ACP by the responsible ACP party.	10/5/02	12/8/04, 69 FR 70895	(c)(230).
Section 130.460	Modifications that require Department preapproval.	10/5/02	12/8/04, 69 FR 70895	(c)(230).
Section 130.461	Other modifications	10/5/02	12/8/04, 69 FR 70895	(c)(230).
Section 130.462	Modification of an ACP by the Department.	10/5/02	12/8/04, 69 FR 70895	(c)(230).
Section 130.463	Cancellation of an ACP	10/5/02	12/8/04, 69 FR 70895	(c)(230).
Section 130.464	Treatment of information	10/5/02	12/8/04, 69 FR 70895	(c)(230).
Section 130.465	Other applicable requirements	10/5/02	12/8/04, 69 FR 70895	(c)(230).
Public Hearing Requirements				
Section 130.471	Public hearings	10/5/02	12/8/04, 69 FR 70895	(c)(230).
Subchapter C—Architectural and Industrial Maintenance Coatings				
Section 130.601	Applicability	10/25/03	11/23/04, 69 FR 68080	(c)(227).
Section 130.602	Definitions	10/25/03	11/23/04, 69 FR 68080	(c)(227).
Section 130.603	Standards	10/25/03	11/23/04, 69 FR 68080	(c)(227).
Section 130.604	Container labeling requirements	10/25/03	11/23/04, 69 FR 68080	(c)(227).
Section 130.605	Reporting requirements	10/25/03	11/23/04, 69 FR 68080	(c)(227).
Section 130.606	Application for variance	10/25/03	11/23/04, 69 FR 68080	(c)(227).
Section 130.607	Variance orders	10/25/03	11/23/04, 69 FR 68080	(c)(227).
Section 130.608	Termination of variance	10/25/03	11/23/04, 69 FR 68080	(c)(227).
Section 130.609	Extension, modification or revocation of variance.	10/25/03	11/23/04, 69 FR 68080	(c)(227).
Section 130.610	Public hearings	10/25/03	11/23/04, 69 FR 68080	(c)(227).
Section 130.611	Compliance provisions and test methods.	10/25/03	11/23/04, 69 FR 68080	(c)(227).
Chapter 131—Ambient Air Quality Standards				
Section 131.1	Purpose	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Section 131.2	National Ambient Air Quality Standards.	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Section 131.3	Ambient air quality standards	8/13/83	7/27/84, 49 FR 30183	(c)(60); Amendment removed a lead standard provision. The remaining standards are not SIP-related.
Section 131.4	Application of ambient air quality standards.	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Chapter 135—Reporting of Sources				
General				
Section 135.1	Definitions	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Section 135.2	Applicability [of sources]	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Section 135.3	Reporting	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Section 135.4	Reporting forms and guides	3/20/72	5/31/72, 37 FR 10842	(c)(1).
Section 135.5	Recordkeeping	10/10/92	1/12/95, 60 FR 2081	(c)(96).
Emission Statements				
Section 135.21	Emission statements	10/10/92	1/12/95	(c)(96)

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Chapter 137—Air Pollution Episodes				
General				
Section 137.1	Purpose	1/28/72	5/31/72, 37 FR 10842 ...	(c)(1).
Section 137.2	Monitoring facilities	1/28/72	5/31/72, 37 FR 10842 ...	(c)(1).
Section 137.3	Episode criteria	6/9/90	6/16/93, 58 FR 33203 ...	(c)(75).
Section 137.4	Standby plans	12/27/97	6/11/02, 67 FR 39854 ...	(c)(189).
Section 137.5	Implementation of emission reduction procedures.	1/28/72	5/31/72, 37 FR 10842 ...	(c)(1).
Level Actions				
Section 137.11	Forecast level actions	1/28/72	5/31/72, 37 FR 10842 ...	(c)(1).
Section 137.12	Alert level actions	1/28/72	5/31/72, 37 FR 10842 ...	(c)(1).
Section 137.13	Warning level actions	1/28/72	5/31/72, 37 FR 10842 ...	(c)(1).
Section 137.14	Emergency level actions	1/28/72	5/31/72, 37 FR 10842 ...	(c)(1).
Chapter 139—Sampling and Testing				
Subchapter A.—Sampling and Testing Methods and Procedures				
General				
Section 139.1	Sampling facilities	3/20/72	5/31/72, 37 FR 10842 ...	(c)(1).
Section 139.2	Sampling by others	3/20/72	5/31/72, 37 FR 10842 ...	(c)(1).
Section 139.3	General requirements	8/1/79	8/8/79, 44 FR 46465	(c)(20); Correction published 1/23/80 (45 FR 5303).
Section 139.4	References	6/10/00	7/20/01	(c)(152).
Section 139.5	Revisions to the source testing manual and continuous source monitoring manual.	11/26/94	7/30/96, ... 61 FR 39497	(c)(110)(i)(D).
Stationary Sources				
Section 139.11	General requirements	3/20/72	5/31/72, 37 FR 10842 ...	(c)(1).
Section 139.12	Emissions of particulate matter	3/7/98	6/11/02, 67 FR 39854 ...	(c)(189).
Section 139.13 (Except Provisions applicable to H_2S and TRS).	Emissions of SO_2, H_2S, TRS and NO_2.	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(D).
Section 139.14	Emissions of VOCs	6/10/00	7/20/01, 66 FR 37908 ...	(c)(152).
Section 139.16	Sulfur in fuel oil	8/13/83	7/27/84, 49 FR 30183 ...	(c)(60).
Section 139.17	General requirements	6/20/81	1/19/83, 48 FR 2319	(c)(48).
Section 139.18	Calculation of Alternative opacity limitations.	6/20/81	1/19/83, 48 FR 2319	(c)(48).
Ambient Levels of Air Contaiminants				
Section 139.21	General	3/20/72	5/31/72, 3 FR 10842	(c)(1).
Section 139.32	Sampling and analytical procedures	11/26/94	7/30/96 61, FR 39491 ...	(c)(110)(i)(D).
Section 139.33	Incorporation of Federal procedures	3/20/72	5/31/72, 37 FR 10842 ...	(c)(1).
Subchapter B.—Monitoring Duties of Certain Sources				
General				
Section 139.51	Purpose	8/29/77	7/17/79, 44 FR 41429 ...	(c)(19).
Section 139.52	Monitoring methods and techniques	8/29/77	7/17/79, 44 FR 41429 ...	(c)(19).
Section 139.53	Filing monitoring reports	8/13/83	7/27/84, 49 FR 30183 ...	(c)(60).
Subchapter C.—Requirements for Continuous In-Stack Monitoring for Stationary Sources				
Section 139.101	General Requirements	3/7/98	6/11/02, 67 FR 39854 ...	(c)(189).
Section 139.102	References	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(D).
Section 139.103	Opacity monitoring requirements	11/26/94	7/30/96, 61 FR 39497 ...	(c)(110)(i)(D).
Section 139.11	Waste incinerator monitoring requirements.	12/27/97	6/11/02, 67 FR 39854 ...	(c)(189).

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Chapter 141—Alternate Standards				
Section 141.1	Imposing alternate standards authorized.	5/14/88	9/17/92, 57 FR 42894 ...	(c)(73).
Chapter 145—Interstate Pollution Transport Reduction				
Subchapter A—NO_X Budget Trading Program				
General Provisions				
Section 145.1	Purpose	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.2	Definitions	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.3	Measurements, abbreviations and acronyms.	9/23/00	8.21.01, 66 FR 43795 ...	(c)(168).
Section 145.4	Applicability	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.5	Retired unit exemption	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.6	Standard requirements	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.7	Computation of time	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
NO_X Account				
Section 145.10	Authorization and responsibilities of the NO_X authorized account representative.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.11	Alternate NO_X authorized account representative.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.12	Changing the NO_X authorized account representative; and changes in the Alternate NO_X authorized account representative; changes in the owners and operators.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.13	Account certificate of representation	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.14	Objections concerning the NO_X authorized account representative.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Compliance Certification				
Section 145.30	Compliance certification report	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.31	Department's action on compliance certifications.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
NO_X Allowance Allocations				
Section 145.40	State Trading Program budget	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.41	Timing Requirements for NO_X allowance allocations.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.42	NO_X Allowance allocations	12/11/04	9/29/06, 71 FR 57428 ...	Revised; SIP-effective date is 10/30/06
Section 145.43	Compliance supplement pool	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Accounting Process for Deposit Use and Transfer of Allowances				
Section 145.50	NO_X Allowance Tracking System accounts.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.51	Establishment of accounts	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.52	NO_X Allowance Tracking System responsibilities of NO_X authorized account representative.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.53	Recordation of NO_X allowance allocations.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168.)
Section 145.54	Compliance	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.55	Banking	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.56	Account error	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.57	Closing of general accounts	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
NO_X Allowance Transfers				
Section 145.60	Submission of NO_X allowance transfers.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.61	NO_X transfer recordation	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Section 145.62	Notification	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Recording and Recordkeeping Requirements				
Section 145.70	General monitoring requirements	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.71	Initial certification and recertification procedures.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.72	Out of control periods	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.73	Notifications	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.74	Recordkeeping and reporting	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.75	Petitions	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.76	Additional requirements to provide heat input data.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Opt-In Process				
Section 145.80	Applicability for opt-in sources	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.81	Opt-in source general provisions	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.82	NO_X authorized account representative for opt-in sources.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.83	Applying for a NO_X budget opt-in approval.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.84	Opt-in process	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.85	NO_X budget opt-in application contents.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.86	Opt-in source withdrawal from NO_X Budget Trading Program.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.87	Opt-in unit change in regulatory status.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Section 145.88	NO_X allowance allocations to opt-in units.	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Emission Reduction Credit Provisions				
Section 145.90	Emission reduction credit provisions	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Interstate Pollution Transport Reduction Requirements				
Section 145.100	Applicability to upwind states	9/23/00	8/21/01, 66 FR 43795 ...	(c)(168).
Subchapter B.—Emissions of NO_X From Stationary Internal Combustion Engines				
Section 145.111	Applicability	12/11/04	9/29/06, 71 FR 57428 ...	New Section SIP-effective date is 10/30/06.
Section 145.112	Definitions	12/11/04	9/29/06, 71 FR 57428 ...	New Section SIP-effective date is 10/30/06.
Section 145.113	Standard requirements	12/11/04	9/29/06, 71 FR 57428 ...	New Section SIP-effective date is 10/30/06.
Subchapter C.—Emissions of NO_X From Cement Manufacturing				
Section 145.141	Applicability	12/11/04	9/29/06, 71 FR 57428 ...	New Section SIP-effective date is 10/30/06.
Section 145.142	Definitions	12/11/04	9/29/06, 71 FR 57428 ...	New Section SIP-effective date is 10/30/06.
Section 145.143	Standard requirements	12/11/04	9/29/06, 71 FR 57428 ...	New Section SIP-effective date is 10/30/06.

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Title 67.—Transportation				
Part I.—Department of Transportation				
Subpart A.—Vehicle Code Provisions				
Article VII.—Vehicle Characteristics				
Chapter 175—Vehicle Equipment and Inspection				
Subchapter A.—General Provisions				
Section 175.2	Definitions	9/27/97	6/17/99, 64 FR 32411 ...	''Temporary Inspection Approval Indicator'' only.
Section 175.2	Definitions	12/3/88	10/6/05, 70 FR 58313 ...	Definitions which apply to safety inspection program in non-I/M counties.
Section 175.3	Application of equipment rules	12/3/88	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties.
Section 175.4	Vehicles required to be inspected	12/3/88	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties.
Section 175.6	Annual inspection	12/3/88	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties.
Section 175.7	Inspection of vehicle reentering this Commonwealth.	12/3/88	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties.
Section 175.8	Newly purchased vehicles	2/9/94	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties.
Section 175.11	Coordination of safety and emission in inspection.	9/27/97	6/17/99 64 FR 32411	(c)(139).
Subchapter B.—Official Inspection Stations				
Section 175.21	Appointment	12/3/88	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties.
Section 175.22	Making application	12/3/88	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties.
Section 175.23(a) and (c).	Approval	12/3/88	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties.
Section 175.24	Required certificates and station signs.	12/3/88	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties.
Section 175.25(a), (b)(1), (b)(3), and (c).	Inspection area	12/3/88	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties.
Section 175.26(a) introductory sentence and (a)(3).	Tools and equipment	9/28/88	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties.
Section 175.27	Hours	12/3/88	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties.
Section 175.28 [Except for (c)(2), (g)(2), (g)(3), and (g)(5)–(9)].	Certified Inspection Mechanics	12/3/88	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties.
Section 175.29(f)(4)	Obligations and responsibilities of stations.	9/27/97	6/17/99 64 FR 32411	(c)(139).
Section 175.29	Obligations and responsibilities of stations.	9/27/97	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties (except for (f)(4), which applies to I/M and non-I/M programs).
Section 175.31	Fleet inspection stations	12/3/88	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties.
Subchapter C.—Certificate of Inspection				
Section 175.41(a), (b)(3), (c), (d)(2)(ii), (d)(2)(iii), (e)(5), (f)(4).	Procedure	9/27/97	6/27/99 64 FR 32411	(c)(139).
Section 175.41(a), (b)(1), (b)(3), (c), (d), (e)(1), (e)(3), (e)(5), and (f)(4).	Procedure	9/27/97	10/6/05, 70 FR 58313 ...	Applies statewide to I/M program and non-I/M safety inspection program.
Section 175.42	Recording inspection	9/27/97	6/17/99 64 FR 32411	
Section 175.43	Security	9/27/97	6/17/99, 64 FR 32411 ...	
Section 175.44	Ordering certificates of inspection	9/27/97	6/17/99, 64 FR 32411 ...	

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Section 175.45	Violation of use of certificate of inspection.	9/27/97	6/17/99, 64 FR 32411 ...	
Subchapter D.—Schedule of Penalties and Suspensions: Official Inspection Stations and Certified Mechanics				
Section 175.51	Cause for suspension	2/19/94	10/6/05, 70 FR 58313 ...	New section; Applies to safety inspection program in non-I/M counties.
Section 175.52	Reapplication	12/3/88	10/6/05, 70 FR 58313 ...	New section; Applies to safety inspection program in non-I/M counties.
Subchapter E.—Passenger Cars and Light Trucks				
Section 175.61	Application of subchapter	12/3/88	10/6/05, 70 FR 58313 ...	New section; Applies to safety inspection program in non-I/M counties.
Section 175.72(d)	Fuel systems	12/3/88	10/6/05, 70 FR 58313 ...	New section; Applies to safety inspection program in non-I/M counties.
Section 175.80(d)	Inspection procedure	5/13/99	10/6/05, 70 FR 58313 ...	New section; Applies to safety inspection program in non-I/M counties
Subchapter H.—Motorcycles				
Section 175.141	Application of subchapter	12/3/88	10/6/05, 70 FR 58313 ...	New section; Applies to safety inspection program in non-I/M counties.
Subchapter J.—Motor-Driven Cycles and Motorized Pedalcycles				
Section 175.171	Application	12/3/88	10/6/05, 70 FR 58313 ...	New section; Applies to safety inspection program in non-I/M counties.
Subchapter K.—Street Rods, Spedially Constructed and Reconstructed Vehicles				
Section 175.201	Application of subchapter	12/3/88	10/6/05, 70 FR 58313 ...	New section; Applies to safety inspection program in non-I/M counties.
Section 175.202	Conditions	12/3/88	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties.
Section 175.220(d) [introductory sentence only].	Inspection procedure	5/13/99	10/6/05, 70 FR 58313 ...	Applies to safety inspection program in non-I/M counties.
Subchapter L.—Animal-Drawn Vehicles, Implemetns of Husbandry and Special Mobile Equipment				
Section 175.221	Application	12/3/88	10/6/05, 70 FR 58313 ...	
Chapter 177—Enhanced Emission Inspection Program				
Subchapter A.—General Provisions				
Section 177.1	Purpose	10/1/97	6/17/99, 64 FR 32411 ...	(c)(139).
Section 177.2	Application of equipment rules	10/1/97	6/17/99, 64 FR 32411 ...	(c)(139).
Section 177.3	Definitions	11/22/03	10/6/05, 70 FR 58313 ...	
Implementation of Emission Inspection Program				
Section 177.22	Commencement of inspections	11/22/03	10/6/05, 70 FR 58313 ...	Retitled and revised.
Section 177.23	Notification of requirement for emission inspection.	11/22/03	10/6/05, 70 FR 58313 ...	
Section 177.24	Program evaluation	11/22/03	10/6/05, 70 FR 58313 ...	

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
		I/M Program		
Section 177.51	Program requirements	11/22/03	10/6/05, 70 FR 58313 ...	Excludes paragraphs (c)(1), (c)(2), and (c)(3), and reference to those paragraphs.
Section 177.52	Emission inspection prerequisites	11/22/03	10/6/05, 70 FR 58313 ...	
Section 177.53	Vehicle inspection process	11/22/03	10/6/05, 70 FR 58313 ...	
		Subchapter B.—Subject Vehicles		
Section 177.101	Subject vehicles	11/22/03	10/6/05, 70 FR 58313 ...	
Section 177.102	Inspection of vehicles reentering this Commonwealth.	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Section 177.103	Used vehicles after sale or resale	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Section 177.104	Vehicles registered in nondesignated areas or other states.	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Section 177.105	Vehicles requiring emission inspection due to change of address.	11/22/03	10/6/05, 70 FR 58313.	
		Subchapter C.—Emission Test Procedures and Emission Standards		
		General		
Section 177.201	General requirements	11/22/03	10/6/05, 70 FR 58313 ...	
Section 177.202	Emission test equipment	11/22/03	10/6/05, 70 FR 58313 ...	
Section 177.202a	OBD–I/M check equipment	11/22/03	10/6/05, 70 FR 58313 ...	New section.
Section 177.202b	Equipment for gas cap test and visual inspection.	11/22/03	10/6/05, 70 FR 58313 ...	New section.
Section 177.203	Test procedures	11/22/03	10/6/05, 70 FR 58313 ...	
Section 177.204	Basis for failure	11/22/03	10/6/05, 70 FR 58313 ...	Retitled and revised.
		Recall Provisions		
Section 177.231	Requirements regarding manufacturer recall notices.	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Section 177.232	Compliance with recall notices	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Section 177.233	Failure to comply	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
		Emission Inspection Report		
Section 177.251	Record of test results	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Section 177.252	Emission inspection report	11/22/03	10/06/05, 70 FR 58313	Retitled and revised.
Section 177.253	Responsibility of the station owner for vehicles which fail the emission inspection.	11/22/03	10/06/05, 70 FR 58313	Retitled and revised.
		Retest		
Section 177.271	Procedure	11/22/03	10/06/05, 70 FR 58313	
Section 177.272	Prerequisites	11/22/03	10/06/05, 70 FR 58313	
Section 177.273	Content of repair data form	11/22/03	10/06/05, 70 FR 58313	
Section 177.274	Retest fees	11/22/03	10/06/05, 70 FR 58313	
Section 177.275	Repair technician training and certification.	11/22/03	10/06/05, 70 FR 58313	New section.
		Issuance of Waiver		
Section 177.281	Issuance of waiver	11/22/03	10/06/05, 70 FR 58313	
Section 177.282	Annual adjustment of minimum waiver expenditure for emission inspections.	11/22/03	10/06/05, 70 FR 58313	Excludes/removes the sentence and partial sentence, ''The minimum expenditure for the first 2 years after commencement of the program in an affected area is $150. Beginning with the 3rd year of the program in an affected area''.
		Procedures Relating to Certificates of Emission Inspection		
Section 177.291	Procedures Relating to Certificates of emission inspection.	11/22/03	10/06/05, 70 FR 58313	Retitled and revised

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Section 177.292	Recording inspection	11/22/03	10/06/05, 70 FR 58313	
On-Road Testing				
Section 177.301	Authorization to conduct on-road emission testing.	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Section 177.302	On-road testing devices	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Section 177.304	Failure of on-road emission test	11/22/03	10/06/05, 70 FR 58313	
Section 177.305	Failure to produce proof of correction of on-road emission test failure.	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Subchapter D.—Official Emission Inspection Station Requirements				
Section 177.401	Appointment	11/22/03	10/06/05, 70 FR 58313	
Section 177.402	Application	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Section 177.403	Approval of emission inspection station.	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Section 177.404	Required certificates and station signs.	11/22/03	10/6/05, 70 FR 58313 ...	
Section 177.405	Emission inspection areas	11/22/03	10/6/05, 70 FR 58313 ...	
Section 177.406	Equipment	11/22/03	10/6/05, 70 FR 58313 ...	Retitled and revised.
Section 177.407	Hours of operation	11/22/03	10/6/05, 70 FR 58313 ...	
Section 177.408	Certified emission inspectors	11/22/03	10/6/05, 70 FR 58313 ...	
Obligations and Responsibilities of Station Owners/Agents				
Section 177.421	Obligations and responsibilities of station owners/agents.	11/22/03	10/6/05, 70 FR 58313 ...	
Section 177.422	Commonwealth emission inspection stations.	11/22/03	10/6/05, 70 FR 58313 ...	Retitled and revised.
Section 177.423	Fleet emission inspection stations	11/22/03	10/6/05, 70 FR 58313 ...	Retitled and revised.
Section 177.424	General emission inspection stations	11/22/03	10/6/05, 70 FR 58313 ...	
Section 177.425	Security	11/22/03	10/6/05, 70 FR 58313 ...	
Section 177.426	Ordering certificates of emission inspection.	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Section 177.427	Violations of use of certificate of emission inspection.	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Quality Assurance				
Section 177.431	Quality assurance	11/22/03	10/6/05, 70 FR 58313.	
Subchapter E.—Equipment Manufacturers' and Contractors' Requirements and Obligations				
Equipment Manufacturers' Requirements				
Section 177.501	Equipment approval procedures	11/22/03	10/6/05, 70 FR 58313.	
Section 177.502	Service commitment	11/22/03	10/6/05, 70 FR 58313.	
Section 177.503	Performance commitment	11/22/03	10/6/05, 70 FR 58313.	
Section 177.504	Revocation of approval	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Contractor Obligations				
Section 177.521	Contractor obligations and responsibilities.	11/22/03	10/6/05, 70 FR 58313.	
Subchapter F.—Schedule of Penalties and Hearing Procedure				
Schedule of Penalties and Suspensions				
Section 177.601	Definitions	11/22/03	10/6/05, 70 FR 58313 ...	New section.
Section 177.602	Schedule of penalties for emission inspection stations.	11/22/03	10/6/05, 70 FR 58313.	
Section 177.603	Schedule of penalties for emission inspectors.	11/22/03	10/6/05, 70 FR 58313.	
Additional Violations				
Section 177.605	Subsequent violations	11/22/03	10/6/05, 70 FR 58313.	
Section 177.606	Multiple violations	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Departmental Hearing Procedure				
Section 177.651	Notice of alleged violation and opportunity to be heard prior to immediate suspension.	11/22/03	10/6/05, 70 FR 58313 ...	Retitled and revised.
Section 177.652	Official documents	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Restoration After Suspension				
Section 177.671	Restoration of certification of an emission inspector after suspension.	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Section 177.672	Restoration of certification of an emission inspection station after suspension.	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Section 177.673	Restoration of certification of certified repair technician after suspension.	9/27/97	6/17/99, 64 FR 32411 ...	(c)(139).
Registration Recall Procedure for Violation of §§ 177.301–177.305 (Relating to On-Road Resting)				
Section 177.691	Registration Recall Committee	11/22/03	10/6/05, 70 FR 58313.	
Appendix A	Acceleration Simulation Mode: Pennsylvania Procedures, Standards, Equipment Specifications and Quality Control Requirements.	11/22/03	10/6/05, 70 FR 58313 ...	Replaces previous Appendix A.
Appendix B	Department Procedures and Specifications.	11/22/03	10/6/05, 70 FR 58313 ...	Replaces previous Appendix B.

(2) EPA-APPROVED ALLEGHENY COUNTY HEALTH DEPARTMENT (ACHD) REGULATIONS

Article XX or XXI Citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Part A—General				
2101.01	Short Titles	10/20/95	11/14/02 67 FR 68935	In SIP at 52.2020(c)(92); citation change only at (c)(192)
2101.02.a, 02.c	Declaration of Policy and Purpose.	10/20/95	11/14/02 67 FR 68935	(c)(192)
2101.03	Effective Date and Repealer	10/20/95	11/14/02 67 FR 68935	In SIP at (c)(92); citation change only at (c)(192)
2101.04	Existing Orders	10/20/95	11/14/02 67 FR 68935	(c)(192)
2101.05	Existing Permits and Licenses	3/31/98	8/30/04 69 FR 52831	52.2420(c)(209)
2101.06	Construction and Interpretation	10/20/95	11/14/02 67 FR 68935	(c)(192)
2101.07 (Except paragraphs .07.c.2 and c.8).	Administration and Organization.	10/20/95	11/14/02 67 FR 68935	(c)(192)
2101.10	Ambient Air Quality Standards (Except: PM10—County & Free silica portion; Pb (1-hr & 8-hr avg.); settled particulates, beryllium, sulfates, fluorides, and hydrogen sulfide).	10/20/95	11/14/02 67 FR 68935	(c)(192)
2101.11	Prohibition of Air Pollution	10/20/95	11/14/02 67 FR 68935	(c)(192)
2101.12	Interstate Air Pollution	10/20/95	11/14/02 67 FR 68935	(c)(192)
2101.13	Nuisances	10/20/95	11/14/02 67 FR 68935	(c)(192)
2101.14	Circumvention	10/20/95	11/14/02 67 FR 68935	(c)(192)
2101.20	Definitions	10/20/95	11/14/02 67 FR 68935	(c)(192)
2101.20	Definitions related to gasoline volatility.	5/15/98 9/1/99	4/17/01 66 FR 19724	(c)(151)
2101.20	Definitions	7/10/03	6/24/05 70 FR 36511	
Part B—Permits Generally				
2102.01	Certification	10/20/95	11/14/02 67 FR 68935	(c)(192)
2102.02	Applicability	10/20/95	11/14/02 67 FR 68935	(c)(192)
2102.03.a through .k	Permits Generally	10/20/95	11/14/02 67 FR 68935	(c)(192)
2102.04	Installation Permits	10/20/95	11/14/02 67 FR 68935	(c)(192)

(2) EPA-APPROVED ALLEGHENY COUNTY HEALTH DEPARTMENT (ACHD) REGULATIONS—Continued

Article XX or XXI Citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
2102.05	Installation Permits for New and Modified Major Sources.	.....	11/14/02 67 FR 68935	(c)(192)
2102.06	Major Sources Locating in or Impacting a Nonattainment Area.	10/20/95	11/14/02 67 FR 68935	(c)(192)
2102.08	Emission Offset Registration	10/20/95	11/14/02 67 FR 68935	(c)(192)
2102.10	Installation Permit Application and Administration Fees.	.....	11/14/02 67 FR 68935	(c)(192)
Part C—Operating Permits				
2103.01	Transition	10/20/95	8/30/04 69 FR 52831	(c)(209)
Subpart 1—Operating Permits (All Major and Minor Permits)				
2103.10.a., b.	Applicability, Prohibitions, Records.	10/20/95	11/14/02 67 FR 68935	(c)(192)
2103.11	Applications	10/20/95	8/30/04 69 FR 52831	(c)(209)
2103.12	Issuance, Standard Conditions	3/31/98	8/30/04 69 FR 52831	(c)(209)
2103.13	Expiration, Renewals, Reactivation.	10/20/95	8/30/04 69 FR 52831	(c)(209)
2103.14	Revisions, Amendments, Modifications.	1/12/01	8/30/04 69 FR 52831	(c)(209)
2103.15	Reopenings, Revocations	10/20/95	8/30/04 69 FR 52831	(c)(209)
Subpart 2—Additional Requirements for Major Permits				
2103.20.b.4	Applicability, Prohibitions, Records.	10/20/95	11/14/02 67 FR 68935	(c)(192)
Part D—Pollutant Emission Standards				
2104.01	Visible Emissions	10/20/95	11/14/02 67 FR 68935	(c)(192)
2104.02	Particualte Mass Emissions	8/15/97	6/12/98 63 FR 32126	(c)(133)(i)(B)(); Citation changes approved on 11/12/02 (67 FR 68935) at (c)(192)
2104.03	Sulfur Oxide Emissions	7/10/03	7/21/04 69 FR 43522	(c)(216)(i)(C)
2104.05	Materials Handling	10/20/95	11/14/02 67 FR 68935	(c)(192)
2104.06	Violations	10/20/95	11/14/02 67 FR 68935	(c)(192)
2104.07	Stack Heights	10/20/95	11/14/02 67 FR 68935	(c)(192)
Part E—Source Emission and Operating Standards				
2105.01	Equivalent Compliance Techniques.	7/10/03	6/24/05 70 FR 36511	
2105.02	Other Requirements Not Affected.	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.03	Operation and Maintenance	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.04	Temporary Shutdown of Incineration Equipment.	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.06	Major Sources of Nitrogen Oxides and Volatile Organic Compounds.	10/20/95	10.7.02 67 FR 62389	(c)(157)
Subpart 1—VOC Sources				
2105.10	Surface coating Processes	7/10/03	6/24/05 70 FR 36511	
2105.11	Graphic Arts Systems	10/20/95	.....	(c)(192)
2105.12	Volatile Organic Compound Storage Tanks.	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.13	Gasoline Loading Facilities	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.14	Gasoline Dispensing Facilities	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.15	Degreasing Operations	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.16	Cutback Asphalt Paving	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.17	Ethylene Production Processes.	10/20/95	11/14/02 67 FR 68935	(c)(192)
Article XX, Section 532	Dry Cleaning Facilities	1/1/82	1/21/83 48 FR 2768	(c)(49)

(2) EPA-APPROVED ALLEGHENY COUNTY HEALTH DEPARTMENT (ACHD) REGULATIONS—Continued

Article XX or XXI Citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
2105.19	Synthetic Organic Chemical & Polymer Manufacturing-Fugitive Sources.	10/20/95	11/14/02 67 FR 68935	(c)(192)
Subpart 2—Slag, Coke, and Miscellaneous Sulfur Sources				
2105.20	Slag Quenching	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.21	Coke Ovens and Coke Oven Gas.	8/15/97	6/12/98 63 FR 32126	(c)(133); 1. EPA approved Revisions effective 7/11/95 on 9/8/98 (63 FR 47434) at (c)(135). 2. EPA approved revisions effective 10/20/95 on 11/14/02 (67 FR 68935) at (c)(192).
2105.22	Miscellaneous Sulfur Emitting Processes.	10/20/95	11/14/02 67 FR 68935	(c)(192)
Subpart 3—Incineration and Combustion Sources				
2105.30 (except paragraphs .b.3. and .f).	Incinerators	10/20/95	11/14/02 67 FR 68935	(c)(192); Section 2105.30.f. is Federally enforceable as part of the applicable section 111(d) plan
Subpart 4—Miscellaneous Fugitive Sources				
2105.40	Permit Source Premises	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.41	Non-permit Premises	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.42	Parking Lots and Roadways	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.43	Permit Source Transport	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.44	Non-Permit Source Transport	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.45	Construction and Land Clearing.	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.46	Mining	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.47	Demolition	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.48	Areas Subject to Sections 2105.40 Through 2105.47.	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.49.a, .b	Fugitive Emissions	10/20/95	11/14/02 67 FR 68935	(c)(192)
Subpart 5—Open Burning and Abrasive Blasting Sources				
2105.50 (except paragraph .50.d).	Open Burning	10/20/95	11/14/02 67 FR 68935	(c)(192)
Article XX, Section 533	Abrasive Blasting	10/9/86	10/19/87 51 FR 38758	(c)(69)
Subpart 7—Miscellaneous VOC Sources				
2105.70	Petroleum Refineries	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.71	Pharmaceutical Products	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.72	Manufacturer of Pneumatic Rubber Tires.	10/20/95	11/14/02 67 FR 68935	(c)(192)
2105.74	Aerospace Manufacturing and Rework.	7/10/03	6/24/05 70 FR 36511	
2105.75	Mobile Equipment Repair and Refinishing.	7/10/03	6/24/05 70 FR 36511	
2105.76	Wood Furniture Manufacturing Operations.	7/10/03	6/24/05 70 FR 36511	
Subpart 9—Transportation Related Sources				
2105.90	Gasoline Volatility	5/15/98 9/1/99	4/17/01 66 FR 19724	(c)(151)
Part F—Air Pollution Episodes				
2106.01	Air Pollution Episode System	10/20/95	11/14/02 67 FR 68935	(c)(192)
2106.02	Air Pollution Source Curtailment Plans.	10/20/95	11/14/02 67 FR 68935	(c)(192)
2106.03	Episode Criteria	10/20/95	11/14/02 67 FR 68935	(c)(192)
2106.04	Episode Actions	10/20/95	11/14/02 67 FR 68935	(c)(192)

(2) EPA-APPROVED ALLEGHENY COUNTY HEALTH DEPARTMENT (ACHD) REGULATIONS—Continued

Article XX or XXI Citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
2106.05	USX-Clairton Works PM–10 Self Audit Emergency Action Plan.	8/15/97	6/12/98 63 FR 32126	(c)(133)(i)(B)(*3*)
Part G—Methods				
2107.01	General	10/20/95	11/14/02 67 FR 68935	(c)(192)
2107.02	Particulate Matter	10/20/95	11/14/02 67 FR 68935	(c)(192)
2107.03	Sulfur Oxides	10/20/95	11/14/02 67 FR 68935	(c)(192)
2107.04 (except paragraph .04.h).	Volatile Organic Compounds	10/20/95	11/14/02 67 FR 68935	(c)(192)
2107.05	Nitrogen Oxides	10/20/95	11/14/02 67 FR 68935	(c)(192)
2107.06	Incinerator Temperatures	10/20/95	11/14/02 67 FR 68935	(c)(192)
2107.07	Coke Oven Emissions	10/20/95	11/14/02 67 FR 68935	(c)(192)
2107.08	Coke Oven Gas	10/20/95	11/14/02 67 FR 68935	(c)(192)
2107.10	Sulfur Content of Coke	10/20/95	11/14/02 67 FR 68935	(c)(192)
2107.11	Visible Emissions	10/20/95	11/14/02 67 FR 68935	(c)(192)
2107.15	Gasoline Volatility and RFG	5/15/98	4/17/01 66 FR 19724	(c)(151)
2107.20.c, .g through .j, .m and .n.	Ambient Measurements	10/20/95	11/14/02 67 FR 68935	(c)(192)
Part H—Reporting, Testing & Monitoring				
2108.01	Reports Required	10/20/95	11/14/02 67 FR 68935	(c)(192)
2109.01.a.	Termination of Operation	10/20/95	11/14/02 67 FR 68935	(c)(192)
2108.01.b	Shutdown of Control Equipment.	10/20/95	11/14/02 67 FR 68935	(c)(192)
2108.01.c	Breakdowns	10/20/95	11/14/02 67 FR 68935	(c)(192)
2108.01.d.	Cold Start	10/20/95	11/14/02 67 FR 68935	(c)(192)
2108.01.e (Except paragraphs e.1.A & .B).	Emissions Inventory Statements.	10/20/95	11/14/02 67 FR 68935	(c)(192)
2108.01.f	Orders	10/20/95	11/14/02 67 FR 68935	(c)(192)
2108.01.g	Violations	10/20/95	11/14/02 67 FR 68935	(c)(192)
2108.02	Emissions Testing	10/20/95	11/14/02 67 FR 68935	(c)(192)
2108.03	Continuous Emissions Monitoring.	10/20/95	11/14/02 67 FR 68935	(c)(192)
2108.04	Ambient Monitoring	10/20/95	11/14/02 67 FR 68935	(c)(192)
Part I—Enforcement				
2109.01	Inspections	10/20/95	11/14/02 67 FR 68935	(c)(192)
2109.02 (except paragraph .02.a.7).	Remedies	10/20/95	11/14/02 67 FR 68935	(c)(192)
2109.03a. (introductory sentence), b. through f.	Enforcement Orders	10/20/95	11/14/02 67 FR 68935	(c)(192)
2109.04	Orders Establishing an Additional or More Restrictive Standard.	10/20/95	11/14/02 67 FR 68935	(c)(192)
2109.05	Emergency Orders	10/20/95	11/14/02 67 FR 68935	(c)(192)
2109.06 (Except paragraphs .06a.a.2, .a.3, and .a.4).	Civil Proceedings	10/20/95	11/14/02 67 FR 68935	(c)(192)
2109.10	Appeals	10/20/95	11/14/02 67 FR 68935	(c)(192)
2109.20	General Federal Conformity	10/20/95	11/14/02 67 FR 68935	(c)(192)

(3) EPA-APPROVED PHILADELPHIA AMS REGULATIONS

Rule citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Title 3—Air Management Code				
Chapter 3–100	General Provisions	10/20/69	5/31/72 37 FR 10842	(c)(1)
Chapter 3–200 (Except § 3–207(4)).	Prohibited Conduct	10/4/76	6/4/79 44 FR 31980	(c)(18)
Chapter 3–300	Administrative Provisions	9/21/72	3/12/79 44 FR 13480	(c)(15)
Regulation I—General Provisions				
Section I	Definitions	4/29/70	5/31/72 37 FR 10842	(c)(1)

(3) EPA-APPROVED PHILADELPHIA AMS REGULATIONS—Continued

Rule citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Section II (Except portions of paragraph II.B).	Source Registration and Emission Reporting.	5/4/74	9/9/75 40 FR 41787	(c)(12)
Section III	Testing and Test Methods	4/29/70	5/31/72 37 FR 10842	(c)(1)
Section IV	Availability of Technology	4/29/70	5/31/72 37 FR 10842	(c)(1)
Section V	Improvement and Plan	4/29/70	5/31/72 37 FR 10842	(c)(1)
Section VI	Pre-existing Regulations	4/29/70	5/31/72 37 FR 10842	(c)(1)
Section VII	Circumvention	4/29/70	5/31/72 37 FR 10842	(c)(1)
Section VIII	Severability	4/29/70	5/31/72 37 FR 10842	(c)(1)
Section IX	Effective Date	4/29/70	5/31/72 37 FR 10842	(c)(1)
Section XI.D	Compliance with Federal Regulations—Stack Height Regulations.	3/27/86	1/23/89 54 FR 3029	(c)(70)
Regulation II—Air Contaminant and Particulate Matter Emissions				
Section I	No Title [General Provisions]	4/29/70	5/31/72 37 FR 10842	(c)(1)
Section II	Open Fires	4/29/70	5/31/72 37 FR 10842	(c)(1)
Section IV	Visible Emissions	5/4/74	9/9/75 40 FR 41787	(c)(12)
Section V	Particulate Matter Emissions from the Burning of Fuels.	8/27/81	4/16/82 47 FR 16325	(c)(43)
Section VI	Selection of Fuel for Particulate Matter Emission Control.	4/29/70	5/31/72 37 FR 10842	(c)(1)
Section VII	Particulate Matter Emissions from Chemical, Metallurgical, Mechanical and Other Processes.	4/29/70	5/31/72 37 FR 10842	(c)(1)
Section VIII	Fugitive Dust	4/29/70	5/31/72 37 FR 10842	(c)(1)
Table 1	No Title [Allowable Process Weight Emissions].	4/29/70	5/31/72 37 FR 10842	(c)(1)
Regulation III—The Control of Emissions of Oxides and Sulfur Compounds				
Section I	No Title [General Provisions]	4/29/70	5/31/72 37 FR 10842	(c)(1)
Section II	Control of Emission of Sulfur Compounds.	5/10/80	9/17/81 46 FR 46133	(c)(37)
Section III	Control of Sulfur in Fuels	8/27/81	4/16/82 47 FR 16325	(c)(43)
Regulation IV—Governing Air Pollution Control Measures During High Air Pollution Episodes				
Section I	Definitions	2/5/71	5/31/72 37 FR 10842	(c)(1)
Section II	Declaration of Conditions	2/5/71	5/31/72 37 FR 10842	(c)(1)
Section III	Termination of Conditions	2/5/71	5/31/72 37 FR 10842	(c)(1)
Section IV	Alert and Notification System by the Health Commissioner and the Emergency Coordinator.	2/5/71	5/31/72 37 FR 10842	(c)(1)
Section V	Advance Preparation for High Air Pollution Episodes.	2/5/71	5/31/72 37 FR 10842	(c)(1)
Section VI	Actions and Restrictions	2/5/71	5/31/72 37 FR 10842	(c)(1)
Section VII	Severability	2/5/71	5/31/72 37 FR 10842	(c)(1)
Section VIII	Effective Date	2/5/71	5/31/72 37 FR 10842	(c)(1)
Table I	Minimum Abatement Strategies for Emission Reduction Plans—Stage I Condition.	2/5/71	5/31/72 37 FR 10842	(c)(1)
Table II	Minimum Abatement Strategies for Emission Reduction Plans—Emergency Condition.	2/5/71	5/31/72 37 FR 10842	(c)(1)
Table III	Minimum Abatement Strategies for Emission Reduction Plans—Emergency Condition.	2/5/71	5/31/72 37 FR 10842	(c)(1)
Table IV	Emergency Business and Establishment List.	2/5/71	5/31/72 37 FR 10842	(c)(1)
Regulation V—Control of Emissions of Organic Substances From Stationary Sources				
Section I (Except for definitions related to paragraphs V.C. & V.D.).	Definitions	11/28/86	6/16/93 58 FR 33200	(c)(83)
Section I	Definitions	5/23/88	4/6/93 48 FR 17778	(c)(78)

(3) EPA-APPROVED PHILADELPHIA AMS REGULATIONS—Continued

Rule citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Section II	Storage Tanks	7/10/71	5/31/72 37 FR 10842	(c)(1)
Section III	Oil-Effluent Water Separator	7/10/71	5/31/72 37 FR 10842	(c)(1)
Section IV	Pumps and Compressors	7/10/71	5/31/72 37 FR 10842	(c)(1)
Section V (Except paragraphs V.C. and V.D.).	Organic Material Loading	7/10/71	5/31/72 37 FR 10842	(c)(1)
Section VI	Solvents	7/10/71	5/31/72 37 FR 10842	(c)(1)
Section VII	Processing of Photochemically Reactive Materials.	7/10/71	5/31/72 37 FR 10842	(c)(1)
Section VIII	Architectural Coatings	7/10/71	5/31/72 37 FR 10842	(c)(1)
Section IX	Disposal of Solvents	7/10/71	5/31/72 37 FR 10842	(c)(1)
Section X	Compliance with Pennsylvania Standards for Volatile Organic Compounds (VOC).	11/28/86	6/16/93 58 FR 33192	(c)(82)
Section XI	Petroleum Solvent Dry Cleaning.	11/28/86	4/12/93 58 FR 19066	(c)(77)
Section XII	Pharmaceutical Tablet Coating	11/28/86	6/16/93 58 FR 33200	(c)(83)
Section XIII	Process Equipment Leaks	5/23/98	4/6/93 58 FR 17778	(c)(78)
Section XXII	Circumvention	7/10/71 recodified	5/31/72 37 FR 10842	(c)(1)
Section XXIII	Severability	7/10/71 recodified 5/23/88	5/31/72 37 FR 10842	(c)(1)
Section XXIV	Effective Date	7/10/71 recodified 5/23/88	5/31/72 37 FR 10842	(c)(1)
Regulation VII—Control of Emissions of Nitrogen Oxides From Stationary Sources				
Section I	Definitions	7/1/72	5/14/73 38 FR 12696	(c)(7)
Section II	Fuel Burning Equipment	11/20/85	1/14/87 52 FR 1456	(c)(65)
Section III	Nitric Acid Plants	7/1/72	5/14/73 38 FR 12696	(c)(7)
Section IV	Emissions Monitoring	7/1/72	5/14/73 38 FR 12696	(c)(7)
Section V	Circumvention	7/1/72	5/14/73 38 FR 12696	(c)(7)
Section VI	Severability	7/1/72	5/14/73 38 FR 12696	(c)(7)
Section VII	Effective Date	7/1/72	5/14/73 38 FR 12696	(c)(7)
Regulation VIII—Control of Emissions of Carbon Monoxide From Stationary Sources				
Section I	Definitions	8/20/72	5/14/73 38 FR 12696	(c)(7)
Section II	General	8/20/72	5/14/73 38 FR 12696	(c)(7)
Section III	Emissions Monitoring	8/20/72	5/14/73 38 FR 12696	(c)(7)
Section IV	Circumvention	8/20/72	5/14/73 38 FR 12696	(c)(7)
Section V	Severability	8/20/72	5/14/73 38 FR 12696	(c)(7)
Section VI	Effective Date	8/20/72	5/14/73 38 FR 12696	(c)(7)
Regulation XI—Control of Emissions From Incinerators				
Section I	Definitions	5/4/74	9/9/75 40 FR 41787	(c)(12)
Section II	General Provisions	5/4/74	9/9/75 40 FR 41787	(c)(12)
Section III (Except paragraph III.E. (odors)).	Emissions Limitations	5/4/74	9/9/75 40 FR 41787	(c)(12)
Section IV	Design	5/4/74	9/9/75 40 FR 41787	(c)(12)
Section V	Operation	5/4/74	9/9/75 40 FR 41787	(c)(12)
Section VI	Permits and Licenses	5/4/74	9/9/75 40 FR 41787	(c)(12)
Section VII	Circumvention	5/4/74	9/9/75 40 FR 41787	(c)(12)
Section VIII	Severability	5/4/74	9/9/75 40 FR 41787	(c)(12)
Section IX	Effective Date	5/4/74	9/9/75 40 FR 41787	(c)(12)
Regulation XIII Construction, Modification, Reactivation and Operation of Sources				
Section I	Introduction	10/30/95	3/28/03 68 FR 15059	(c)(203)
Section II	Program Adoption	10/30/95	3/28/03 68 FR 15059	(c)(203)

(d) *EPA-approved source-specific requirements.*

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)

Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
For exceptions, *see* the applicable paragraphs in 40 CFR § 52.2063(c)					
ARCO Chemical Company	04–313–052	Beaver	12/9/86	5/16/90 55 FR 20267	(c)(71)
IMC Chemical Group	39–313–014	Lehigh	12/10/86	5/16/90 55 FR 20267	(c)(72)
Aristech Chemical Corp	86–I–0024–P	Allegheny	8/28/86 3/3/87	6/16/93 58 FR 33197	(c)(80)
The Knoll Group	46–326–001A	Montgomery	3/24/93	10/19/93 58 FR 53885	(c)(87)
ESSROC Materials	PA–48–0004A	Northampton	12/20/94	08/08/95 60 FR 40292	(c)(98)(i)(B)(*1*)
Pennsylvania Power and Light Co. (PP&L)—Brunner Island.	PA–67–2005	York	12/22/94	08/08/95 60 FR 40292	(c)(98)(i)(B)(*2*)
PPG Industries, Inc.—South Middleton	OP–21–2002	Cumberland	12/22/94	08/08/95 60 FR 40292	(c)(98)(i)(B)(*3*)
Stroehmann Bakeries—Dauphin County.	PA–22–2003	Dauphin	12/22/94	08/08/95 60 FR 40292	(c)(98)(i)(B)(*4*)
General Electric Transportation Systems—Erie.	OP–25–025	Erie	12/21/94	08/08/95 60 FR 40292	(c)(98)(i)(B)(*5*)
J. E. Baker Co. (Refractories)—York	OP–67–2001	York	12/22/94	08/08/95 60 FR 40292	(c)(98)(i)(B)(*6*)
Lafarge Corp.	OP–39–0011	Lehigh	12/23/94	08/08/95 60 FR 40292	(c)(98)(i)(B)(*7*)
Lafarge Corp.	PA–39–0011A	Lehigh	12/23/94	08/08/95 60 FR 40292	(c)(98)(i)(B)(*7*)
West Penn Power—Armstrong	PA–03–000–023	Armstrong	12/29/94	08/08/95 60 FR 40292	(c)(98)(i)(B)(*8*)
West Penn Power—Armstrong	PA–03–306–004	Armstrong	3/28/94	08/08/95 60 FR 40292	(c)(98)(i)(B)(*8*)
West Penn Power—Armstrong	PA–03–306–006	Armstrong	11/22/94	08/08/95 60 FR 40292	(c)(98)(i)(B)(*8*)
Plain and Fancy Kitchens, Inc	PA–38–318–019C	Lebanon	12/23/94	08/08/95 60 FR 40292	(c)(98)(i)(B)(*9*)
Stroehmann Bakeries—Bradford County.	PA–08–0001	Bradford	2/9/95	08/10/95 60 FR 40758	(c)(101)(i)(B)
Stroehmann Bakeries—Bradford County.	OP–08–0001A	Bradford	2/9/95	08/10/95 60 FR 40758	(c)(101)(i)(B)
Stroehmann Bakeries—Lycoming County.	PA–41–0001	Lycoming	2/9/95	08/10/95 60 FR 40758	(c)(101)(i)(B)
Stroehmann Bakeries—Lycoming County.	OP–41–0001A	Lycoming	2/9/95	08/10/95 60 FR 40758	(c)(101)(i)(B)
Philadelphia Electric Co. (PECO)—Eddystone.	OP23–0017	Delaware	12/28/94	09/08/95 60 FR 46768	(c)(102)(i)(B)(*1*)
Philadelphia Electric Co. (PECO)—Eddystone.	PA23–0017	Delaware	12/28/94	09/08/95 60 FR 46768	(c)(102)(i)(B)(*1*)
Gilberton Power Co.—John Rich Memorial.	OP–54–0004	Schuylkill	12/20/94	09/08/95 60 FR 46768	(c)(102)(i)(B)(*2*)
Bethlehem Steel—Coke and Chemical Production.	OP–48–0013	Northampton	12/20/94	09/08/95 60 FR 46768	(c)(102)(i)(B)(*3*)
Bethlehem Steel—Foundry	OP–48–0014	Northampton	12/20/94	09/08/95 60 FR 46768	(c)(102)(i)(B)(*3*)
Bethlehem Steel—Structural Products	OP–48–0010	Northampton	12/20/94	09/08/95 60 FR 46768	(c)(102)(i)(B)(*3*)
Bethlehem Steel—Forging	OP–48–0015	Northampton	12/20/94	09/08/95 60 FR 46768	(c)(102)(i)(B)(*3*)
Westwood Energy Properties, Inc. (CRS Sirrine, Inc.).	OP–54–000–6	Schuylkill	12/27/94	09/08/95 60 FR 46768	(c)(102)(i)(B)(*4*)
PECO Energy Co.—Front Street	OP–46–0045	Montgomery	3/31/95	09/08/95 60 FR 46768	(c)(102)(i)(B)(*5*)
Crawford Furniture Manufacturing Corp.—Clarion County.	OP–16–021	Clarion	3/27/95	09/08/95 60 FR 46768	(c)(102)(i)(B)(*6*)
Schuylkill Energy Resources	OP–54–0003	Schuylkill	5/19/95	09/08/95 60 FR 46768	(c)(102)(i)(B)(*7*)
Columbia Gas Transmission Corp.—Milford Compressor Station.	OP–52–0001	Pike	4/21/95	09/08/95 60 FR 46768	(c)(102)(i)(B)(*9*)
Texas Eastern Transmission Corp.—Entriken Compressor Station.	OP–31–2003	Huntingdon	5/16/95	09/08/95 60 FR 46768	(c)(102)(i)(B)(*10*)

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Columbia Gas Transmission Corp.—Greencastle Compressor Station.	OP–28–2003	Franklin	4/21/95	09/08/95 60 FR 46768	(c)(102)(i)(B)(*11*)
Lord Corporation—Aerospace Div	OP–25–095	Erie	3/30/95	09/08/95 60 FR 46768	(c)(102)(i)(B)(*12*)
Tennessee Gas Pipeline Co. (TENNECO)—Station 313.	PA–53–0001 OP–53–0001 CP–53–0001	Potter	11/27/95	04/09/96 61 FR 15709	(c)(103)(i)(B)(*1*)
Corning Asahi Video Products—State College.	OP–14–0003	Centre	12/27/94	04/09/96 61 FR 15709	(c)(103)(i)(B)(*2*)
Corning Asahi Video Products—State College.	OP–14–309–009C	Centre	5/5/94	04/09/96 61 FR 15709	(c)(103)(i)(B)(*2*)
Corning Asahi Video Products—State College.	OP–14–309–010A	Centre	8/18/94	04/09/96 61 FR 15709	(c)(103)(i)(B)(*2*)
Corning Asahi Video Products—State College.	OP–14–309–037A	Centre	5/5/94	04/09/96 61 FR 15709	(c)(103)(i)(B)(*2*)
Columbia Gas Transmission Corp.—Easton Compressor Station.	OP–48–0001 PA–48–0001A	Northampton	5/19/95	04/09/96 61 FR 15709	(c)(103)(i)(B)(*3*)
Texas Eastern Transmission Corp.—Bedford Compressor Station.	OP–05–2007	Bedford	5/16/95	04/09/96 61 FR 15709	(c)(103)(i)(B)(*4*)
Texas Eastern Transmission Corp.—Marietta Compressor Station.	PA–36–2025	Lancaster	5/16/95	04/09/96 61 FR 15709	(c)(103)(i)(B)(*5*)
Hercules Cement Co.	OP–48–0005 PA–48–0005A	Northampton	12/23/94	04/09/96 61 FR 15709	(c)(103)(i)(B)(*6*)
ESSROC (formerly Lone Star Industries, Inc.).	OP–48–0007	Northampton	12/29/94	04/09/96 61 FR 15709	(c)(103)(i)(B)(*7*)
Pennsylvania Power and Light Co. (PP&L)—Montour.	OP–47–0001 PA–47–0001A	Montour	12/27/94	04/09/96 61 FR 15709	(c)(103)(i)(B)(*8*)
Pennsylvania Electric Co. (PENELEC)—Shawville.	PA–17–0001	Clearfield	12/27/94	04/09/96 61 FR 15709	(c)(103)(i)(B)(*9*)
Zinc Corp. of America—Potter Twp.	OP–04–000–044	Beaver	12/29/94	04/09/96 61 FR 15709	(c)(103)(i)(B)(*10*)
The Proctor and Gamble Paper Products Company Mehoopany.	OP–66–0001 PA–66–0001A	Wyoming	12/20/94	04/09/96 61 FR 15709	(c)(103)(i)(B)(*11*)
Columbia Gas Transmission Corp.—Union City Compressor Station.	OP–25–892	Erie	4/11/95	04/09/96 61 FR 15709	(c)(103)(i)(B)(*12*)
James River Corp.—Chambersburg	OP–28–2006	Franklin	6/14/95	02/12/96 61 FR 05303	(c)(104)(i)(C)(*1*)
Appleton Papers, Inc.—Harrisburg	OP–21–2004	Cumberland	5/24/95	02/12/96 61 FR 05303	(c)(104)(i)(C)(*2*)
Air Products and Chemicals, Inc.—Corporate R & D.	OP–39–0008	Lehigh	5/25/95	02/12/96 61 FR 05303	(c)(104)(i)(C)(*3*)
Elf Atochem North America, Inc.—King of Prussia.	OP–46–0022	Montgomery	6/27/95	02/12/96 61 FR 05303	(c)(104)(i)(C)(*4*)
York City Sewer Authority (Wastewater Treatment Plant).	OP–67–2013	York	3/1/95	02/12/96 61 FR 05303	(c)(104)(i)(C)(*5*)
Glasgow, Inc.—Ivy Rock	OP–46–0043	Montgomery	6/7/95	02/12/96 61 FR 05303	(c)(104)(i)(C)(*6*)
Glasgow, Inc.—Spring House	OP–46–0029	Montgomery	6/7/95	02/12/96 61 FR 05303	(c)(104)(i)(C)(*7*)
Glasgow, Inc.—Catanach	OP–15–0021	Chester	6/7/95	02/12/96 61 FR 05303	(c)(104)(i)(C)(*8*)
Glasgow, Inc.—Freeborn	OP–23–0026	Delaware	6/7/95	02/12/96 61 FR 05303	(c)(104)(i)(C)(*9*)
UGI Utilities—Hunlock Creek	OP–40–0005 PA–40–0005A	Luzerne	12/20/94	05/16/96 61 FR 24706	(c)(108)(i)(B)(*1*)
Solar Turbines, Inc. (York Cogeneration Facility).	PA–67–2009	York	8/17/95	05/16/96 61 FR 24706	(c)(108)(i)(B)(*2*)
Solar Turbines, Inc. (York Cogeneration Facility).	CP–67–2009	York	8/17/95	05/16/96 61 FR 24706	(c)(108)(i)(B)(*2*)
Columbia Gas Transmission Corp.—Renovo Compressor Station.	OP–18–0001 PA–18–0001	Clinton	7/18/95	05/16/96 61 FR 24706	(c)(108)(i)(B)(*3*)
National Fuel Gas Supply Corp.—East Fork Compressor Station.	OP–53–0007 PA–53–0007A	Potter	7/17/95	05/16/96 61 FR 24706	(c)(108)(i)(B)(*4*)
York County Solid Waste & Refuse Authority (Y.C.R.R.C.).	PA–67–2006	York	8/25/95	05/16/96 61 FR 24706	(c)(108)(i)(B)(*5*)
W. R. Grace and Co.—FORMPAC Div..	PA–06–1036	Berks	5/12/95	05/16/96 61 FR 24706	(c)(108)(i)(B)(*6*)
W. R. Grace and Co.—Reading Plant	PA–06–315–001	Berks	6/4/92	05/16/96 61 FR 24706	(c)(108)(i)(B)(*6*)

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
CNG Transmission Corp.—Cherry Tree Sta..	PA–32–000–303	Indiana	7/5/95	05/16/96 61 FR 24706	(c)(108)(i)(B)(*7*)
EPC Power Corp. of Bethlehem (Crozer Chester CoGen).	OP–23–0007	Delaware	6/8/95	05/16/96 61 FR 24706	(c)(108)(i)(B)(*8*)
C–P Converters, Inc.—York	OP–67–2030	York	8/30/95	05/16/96 61 FR 24706	(c)(108)(i)(B)(*9*)
Fisher Scientific Co. International—Indiana.	OP–32–000–100	Indiana	7/18/95	05/16/96 61 FR 24706	(c)(108)(i)(B)(*10*)
Adelphi Kitchens, Inc.—Robesonia Factory.	OP–06–1001	Berks	4/4/95	05/16/96 61 FR 24706	(c)(108)(i)(B)(*11*)
Birchcraft Kitchens, Inc.—Reading Factory.	OP–06–1005	Berks	4/4/95	05/16/96 61 FR 24706	(c)(108)(i)(B)(*12*)
Glasgow, Inc.—Bridgeport Asphalt Plant.	OP–46–0044	Montgomery	6/7/95	05/16/96 61 FR 24706	(c)(108)(i)(B)(*13*)
Caparo Steel Co.—Farrell	OP–43–285	Mercer	11/3/95	12/20/96 61 FR 67229	(c)(113)(i)(B)(*1*) 52.2037(g)
Sharon Steel Corp.—Farrell	OP–43–017	Mercer	11/3/95	12/20/96 61 FR 67229	(c)(113)(i)(B)(*2*); 52.2036(f); 52.2037(e)
DMi Furniture, Inc.—Timely Plant #7 (Gettysburg).	OP–01–2001	Adams	6/13/95	03/12/97 62 FR 11079	(c)(114)(i)(B)(*1*)
R. R. Donnelley and Sons Co.—Lancaster West Plant.	OP–36–2026	Lancaster	7/14/95	03/12/97 62 FR 11079	(c)(114)(i)(B)(*2*)
International Paper Company—Hammermill Papers Division.	OP–18–0005	Clinton	12/27/94	01/29/97 62 FR 04167	(c)(115)(i)(B)
Lucent Technology (formerly AT&T Corp.)—Reading.	PA–06–1003	Berks	6/26/95	04/18/97 62 FR 19051	(c)(117)(i)(B)(*1*)
Garden State Tanning, Inc.—Fleetwood Plant.	PA–06–1014	Berks	6/21/95	04/18/97 62 FR 19051	(c)(117)(i)(B)(*2*)
Glidden Co., The—Reading	OP–06–1035	Berks	2/15/96	04/18/97 62 FR 19051	(c)(117)(i)(B)(*3*)
Maier's Bakery—Reading Plant	PA–06–1023	Berks	9/20/95	04/18/97 62 FR 19047	(c)(118)(i)(B)(*1*)
Morgan Corp.—Morgantown Plant	OP–06–1025	Berks	8/31/95	04/18/97 62 FR 19047	(c)(118)(i)(B)(*2*)
Allentown Cement Co., Inc.—Evansville Plant.	PA–06–1002	Berks	10/11/95	04/18/97 62 FR 19047	(c)(118)(i)(B)(*3*)
Quaker Maid (Schrock Cabinet Group)—Leesport.	OP–06–1028	Berks	10/27/95	04/18/97 62 FR 19047	(c)(118)(i)(B)(*4*)
Brentwood Industries, Inc.—Reading Plant.	PA–06–1006	Berks	2/12/96	04/18/97 62 FR 19047	(c)(118)(i)(B)(*5*)
Metropolitan Edison Co. (MetEd)—Titus Station.	PA–06–1024	Berks	3/9/95	04/18/97 62 FR 19047	(c)(118)(i)(B)(*6*)
ICI Fluoropolymers—Downingtown	PA–15–0009 CP–15–0009	Chester	10/3/95	04/18/97 62 FR 19047	(c)(118)(i)(B)(*7*)
Synthetic Thread Co., Inc.—Bethlehem.	PA–39–0007A	Lehigh	8/10/95	04/18/97 62 FR 19047	(c)(118)(i)(B)(*8*)
Bird-in-Hand Woodwork, Inc. (Childcraft Education Corp.).	OP–36–2022	Lancaster	9/27/95	04/18/97 62 FR 19047	(c)(118)(i)(B)(*9*)
Heinz Pet Products—Bloomsburg	OP–19–0003	Columbia	11/27/95	08/21/97 62 FR 44413	(c)(119)(i)(B)(*1*)
Graco Children's Products, Inc.—Elverson.	OP–15–0006	Chester	11/30/95	08/21/97 62 FR 44413	(c)(119)(i)(B)(*2*)
Texas Eastern Transmission Corp.—Bernville.	OP–06–1033	Berks	1/31/97	04/18/97 62 FR 19049	(c)(120)(i)(B)(*1*)
Texas Eastern Transmission Corp.—Bechtelsville.	OP–06–1034	Berks	1/31/97	04/18/97 62 FR 19049	(c)(120)(i)(B)(*2*)
Carpenter Technology Corp.—Reading Plant.	OP–06–1007	Berks	9/27/96	04/18/97 62 FR 19049	(c)(120)(i)(B)(*3*), (ii)(B)
North American Fluoropolymers Co. (NAFCO).	06–1026 CP–06–1026	Berks	4/19/95 6/1/95	04/18/97 62 FR 19049	(c)(120)(i)(B)(*4*), (ii)(B)
CNG Transmission Corp.—Ellisburg Compressor Station.	PA–53–0004A	Potter	2/29/96	06/11/97 62 FR 31732	(c)(121)(i)(B)(*1*)
CNG Transmission Corp.—Ellisburg Compressor Station.	OP–53–0004	Potter	2/29/96	06/11/97 62 FR 31732	(c)(121)(i)(B)(*1*)
CNG Transmission Corp.—Ellisburg Compressor Station.	CP–53–0004A	Potter	2/29/96	06/11/97 62 FR 31732	(c)(121)(i)(B)(*1*)
CNG Transmission Corp.—Greenlick Compressor Station.	PA–53–0003A	Potter	12/18/95	06/11/97 62 FR 31732	(c)(121)(i)(B)(*2*)

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Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
CNG Transmission Corp.—Greenlick Station.	CP–53–0003A	Potter	12/18/95	06/11/97 62 FR 31732	(c)(121)(i)(B)(*2*)
CNG Transmission Corp.—Greenlick Compressor Station.	OP–53–0003	Potter	12/18/95	06/11/97 62 FR 31732	(c)(121)(i)(B)(*2*)
CNG Transmission Corp.—Crayne Station.	30–000–089	Greene	12/22/95	06/11/97 62 FR 31732	(c)(121)(i)(B)(*3*)
CNG Transmission Corp.—State Line Station.	OP–53–0008	Potter	1/10/96	06/11/97 62 FR 31732	(c)(121)(i)(B)(*4*)
CNG Transmission Corp.—Big Run Station.	PA–33–147	Jefferson	6/27/95	06/11/97 62 FR 31732	(c)(121)(i)(B)(*5*)
Medusa Cement Company	OP–37–013	Lawrence	7/27/95	06/03/97 62 FR 30250	(c)(122)(i)(B)(*1*)
Keystone Cement Co.	OP–48–0003	Northampton	5/25/95	06/03/97 62 FR 30250	(c)(122)(i)(B)(*2*)
Lehigh Portland Cement Company	OP–67–2024	York	5/26/95	06/03/97 62 FR 30250	(c)(122)(i)(B)(*3*)
Mercer Lime and Stone Company	OP–10–023	Butler	5/31/95	06/03/97 62 FR 30250	(c)(122)(i)(B)(*4*)
Con-Lime, Inc.	OP–14–0001	Centre	6/30/95	06/03/97 62 FR 30250	(c)(122)(i)(B)(*5*)
Pennzoil Products Co.—Rouseville	PA–61–016	Venango	9/8/95	06/11/97 62 FR 31738	(c)(124)(i)(B)
R. R. Donnelley & Sons Co.—Lancaster East Plant.	OP–36–2027	Lancaster	7/14/95	07/21/97 62 FR 33891	(c)(125)(i)(B); 52.2036j
Panther Creek Partners	OP–13–0003	Carbon	12/2/96	09/29/97 62 FR 50871	(c)(128)(i)(B)
Allegro Microsystems, W.G., Inc.—Willow Grove.	OP–46–0006	Montgomery	12/19/97	03/09/98 63 FR 11370	(c)(130)(i)(B)(*1*)
Hale Products, Inc.—Conshohocken	OP–46–0057	Montgomery	11/21/97	03/09/98 63 FR 11370	(c)(130)(i)(B)(*2*)
Con-Lime, Inc.—Bellefonte	OP–14–0001	Centre	1/7/98	03/09/98 63 FR 11370	(c)(130)(i)(B)(*3*)
Coastal Aluminum Rolling Mills, Inc.—Williamsport.	OP–41–0007	Lycoming	11/21/97	03/09/98 63 FR 11370	(c)(130)(i)(B)(*4*)
ABP/International Envelope Co.	OP–15–0023	Chester	11/2/95	03/09/98 63 FR 11370	(c)(130)(i)(B)(*5*)
Brown Printing Company	CP–46–0018	Montgomery	9/26/96 10/27/97	03/09/98 63 FR 11370	(c)(130)(i)(B)(*6*)
Fibre-Metal Products Company	OP–23–0025	Delaware	2/20/98	06/29/98 63 FR 35145	(c)(132)(i)(B)(*1*)
Finnaren & Haley, Inc.	OP–46–0070	Montgomery	3/5/98	06/29/98 63 FR 35145	(c)(132)(i)(B)(*2*)
Fres-co System USA, Inc.	OP–09–0027	Bucks	3/5/98	06/29/98 63 FR 35145	(c)(132)(i)(B)(*3*)
Graphic Packaging Corporation	OP–15–0013	Chester	2/28/98	06/29/98 63 FR 35145	(c)(132)(i)(B)(*4*)
Montour Oil Service Company, a division of Sun Company, Inc..	OP–41–0013	Lycoming	3/19/98	06/29/98 63 FR 35145	(c)(132)(i)(B)(*5*)
Atlantic Refining and Marketing Corp. (Sun Co., Inc. (R&M)).	OP–49–0015	Northampton	3/19/98	06/29/98 63 FR 35145	(c)(132)(i)(B)(*6*)
Transwall Corporation	OP–15–0025	Chester	3/10/98	06/29/98 63 FR 35145	(c)(132)(i)(B)(*7*)
Tavo Packaging (formerly Mead Packaging Company).	OP–09–0008	Bucks	11/8/95	06/29/98 63 FR 35145	(c)(132)(i)(B)(*8*)
CNG Transmission Corp.—Harrison Compressor Station.	PA–53–0005A	Potter	4/16/96	10/08/98 63 FR 54050	(c)(134)(i)(B)(*1*)
CNG Transmission Corp.—Harrison Compressor Station.	OP–53–0005	Potter	4/16/96	10/08/98 63 FR 54050	(c)(134)(i)(B)(*1*)
CNG Transmission Corp.—Harrison Station.	CP–53–0005A	Potter	4/16/96	10/08/98 63 FR 54050	(c)(134)(i)(B)(*1*)
CNG Transmission Corp.—Leidy Station.	PA–18–0004A	Clinton	3/25/96	10/08/98 63 FR 54050	(c)(134)(i)(B)(*2*)
CNG Transmission Corp.—Leidy Compressor Station.	OP–18–0004	Clinton	2/29/96	10/08/98 63 FR 54050	(c)(134)(i)(B)(*2*)
CNG Transmission Corp.—Leidy Station.	CP–18–0004A	Clinton	3/25/96	10/08/98 63 FR 54050	(c)(134)(i)(B)(*2*)
CNG Transmission Corp.—Sabinsville Compressor Station.	PA–59–0002A	Tioga	12/18/95	10/08/98 63 FR 54050	(c)(134)(i)(B)(*3*)

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Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
CNG Transmission Corp.—Sabinsville Compressor Station.	OP–59–0002	Tioga	12/18/95	10/08/98 63 FR 54050	(c)(134)(i)(B)(*3*)
CNG Transmission Corp.—Sabinsville Station.	CP–59–0002A	Tioga	12/18/95	10/08/98 63 FR 54050	(c)(134)(i)(B)(*3*)
CNG Transmission Corp.—Tioga Station.	OP–59–0006	Tioga	1/16/96	10/08/98 63 FR 54050	(c)(134)(i)(B)(*4*)
Eldorado Properties Corp.—Northumberland Terminal.	OP–49–0016	Northumberland	5/1/98	11/06/98 63 FR 59884	(c)(136)(i)(B)(*1*)
Endura Products, Inc.	OP–09–0028	Bucks	5/13/98	11/06/98 63 FR 59884	(c)(136)(i)(B)(*2*)
Ford Electronics & Refrigeration Company.	OP–46–0036	Montgomery	4/30/98	11/06/98 63 FR 59884	(c)(136)(i)(B)(*3*)
H & N Packaging, Inc. (formerly Paramount Packaging Corp.)	OP–09–0038	Bucks	6/8/98	11/06/98 63 FR 59884	(c)(136)(i)(B)(*4*)
Lancaster County Solid Waste Management Authority.	36–02013	Lancaster	6/3/98	11/06/98 63 FR 59884	(c)(136)(i)(B)(*5*)
Monsey Products Co.—Kimberton	OP–15–0031	Chester	6/4/98	11/06/98 63 FR 59884	(c)(136)(i)(B)(*6*)
Ortho–McNeil Pharmaceutical—Spring House.	OP–46–0027	Montgomery	6/4/98	11/06/98 63 FR 59884	(c)(136)(i)(B)(*7*)
Piccari Press, Inc.	OP–09–0040	Bucks	4/29/98	11/06/98 63 FR 59884	(c)(136)(i)(B)(*8*)
Pierce and Stevens Corp.—Kimberton	OP–15–0011	Chester	3/27/98	11/06/98 63 FR 59884	(c)(136)(i)(B)(*9*)
PQ Corporation—Chester	OP–23–0016	Delaware	6/16/98	11/06/98 63 FR 59884	(c)(136)(i)(B)(*10*)
Reynolds Metals Company Downington.	OP–15–0004	Chester	5/8/98	11/06/98 63 FR 59884	(c)(136)(i)(B)(*11*)
Rhone–Poulenc Rorer Pharmaceutical, Inc..	OP–46–0048B	Montgomery	4/2/98	11/06/98 63 FR 59884	(c)(136)(i)(B)(*12*)
Superior Tube Company	OP–46–0020	Montgomery	4/17/98	11/06/98 63 FR 59884	(c)(136)(i)(B)(*13*)
Uniform Tubes Inc.	OP–46–0046A	Montgomery	3/26/98	11/06/98 63 FR 59884	(c)(136)(i)(B)(*14*)
U.S. Air Force—Willow Grove Air Reserve Station.	OP–46–0072	Montgomery	5/1/98	11/06/98 63 FR 59884	(c)(136)(i)(B)(*15*)
Naval Air Station, Joint Reserve Base—Willow Grove.	OP–46–0079	Montgomery	5/4/98	11/06/98 63 FR 59884	(c)(136)(i)(B)(*16*)
Columbia Gas Transmission Corp.—Artemas Compressor Station.	05–2006	Bedford	4/19/95	12/03/98 63 FR 66755	(c)(137)(i)B)(*1*)
Columbia Gas Transmission Corp.—Donegal Compressor Station.	63–000–631	Washington	7/10/95	12/03/98 63 FR 66755	(c)(137)(i)B)(*2*)
Columbia Gas Transmission Corp.—Gettysburg Compressor Station.	01–2003	Adams	4/21/95	12/03/98 63 FR 66755	(c)(137)(i)B)(*3*)
Columbia Gas Transmission Corp.—Eagle Compressor.	OP–15–0022	Chester	2/1/96	12/03/98 63 FR 66755	(c)(137)(i)B)(*4*)
Columbia Gas Transmission Corp.—Downingtown.	CP–15–0020	Chester	9/15/95	12/03/98 63 FR 66755	(c)(137)(i)B)(*5*)
GKN Sinter Metals, Inc.	OP–12–0002	Cameron	10/30/98	04/16/99 64 FR 18821	(c)(138)(i)(B)(*1*)
Cabinet Industries, Inc.—Water Street Plant.	OP–47–0005	Montour	9/21/98	04/16/99 64 FR 18821	(c)(138)(i)(B)(*2*)
Springs Window Fashions Division, Inc..	OP–41–0014	Lycoming	9/29/98	04/16/99 64 FR 18821	(c)(138)(i)(B)(*3*)
Centennial Printing Corp.	OP–46–0068	Montgomery	10/31/96 5/11/98	04/16/99 64 FR 18821	(c)(138)(i)(B)(*4*)
Strick Corp.—Danville	OP–47–0002	Montour	8/28/96	04/16/99 64 FR 18821	(c)(138)(i)(B)(*5*)
Handy and Harmon Tube Co.—Norristown.	OP–46–0016	Montgomery	9/25/95	04/16/99 64 FR 18821	(c)(138)(i)(B)(*6*)
Boeing Defense & Space Group—Helicopters Div..	CP–23–0009	Delaware	9/3/97	12/15/00 65 FR 78418	(c)(143)(i)(B)(*1*)
Delaware County Regional Authority's Western Regional Treatment Plant (DELCORA WRTP).	OP–23–0032	Delaware	3/12/97 5/16/97	12/15/00 65 FR 78418	(c)(143)(i)(B)(*2*)
Delbar Products, Inc.—Perkasie	OP–09–0025	Bucks	2/1/96	12/15/00 65 FR 78418	(c)(143)(i)(B)(*3*)
Department of Public Welfare (NSH)—Norristown.	OP–46–0060	Montgomery	1/21/98	12/15/00 65 FR 78418	(c)(143)(i)(B)(*4*)

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Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Dopaco, Inc.—Downingtown	CP–15–0029	Chester	3/6/96	12/15/00 65 FR 78418	(c)(143)(i)(B)(*5*)
Garlock, Inc. (Plastomer Products)	PA–09–0035	Bucks	3/12/97	12/15/00 65 FR 78418	(c)(143)(i)(B)(*6*)
Interstate Brands Corporation (formerly, Continental Baking Company).	PLID (51–)5811	Philadelphia	4/10/95	12/15/00 65 FR 78418	(c)(143)(i)(B)(*7*)
J. B. Slevin Company Inc.—Lansdowne.	OP–23–0013	Delaware	9/3/96	12/15/00 65 FR 78418	(c)(143)(i)(B)(*8*)
Laclede Steel Co.—Fairless	OP–09–0023	Bucks	7/17/95	12/15/00 65 FR 78418	(c)(143)(i)(B)(*9*)
LNP Engineering Plastics, Inc.—Thorndale.	OP–15–0035	Chester	10/31/97	12/15/00 65 FR 78418	(c)(143)(i)(B)(*10*)
Lukens Steel Co.—Coatesville	OP–15–0010	Chester	5/6/99	12/15/00 65 FR 78418	(c)(143)(i)(B)(*11*)
Nabisco Biscuit Co.	PLID (51–)3201	Philadelphia	4/10/95	12/15/00 65 FR 78418	(c)(143)(i)(B)(*12*)
PECO Energy Co.—Croydon Generating Station.	OP–09–0016A	Bucks	12/20/96	12/15/00 65 FR 78418	(c)(143)(i)(B)(*13*)
PECO Energy Co.—Limerick Generating Station.	OP–46–0038	Montgomery	7/25/95	12/15/00 65 FR 78418	(c)(143)(i)(B)(*14*)
PECO Energy Co.—USX Fairless Works Powerhouse.	OP–09–0066	Bucks	12/31/98 4/6/99	12/15/00 65 FR 78418	(c)(143)(i)(B)(*15*)
PECO Energy Co.—West Conshohocken Plant.	OP–46–0045A	Montgomery	12/4/97	12/15/00 65 FR 78418	(c)(143)(i)(B)(*16*)
Pennsylvania Electric Co.—Front Street Station.	25–0041	Erie	2/25/99	12/15/00 65 FR 78418	(c)(143)(i)(B)(*17*)
American Inks and Coatings Corp.—Valley Forge.	OP–15–0026A	Chester	1/10/97	12/15/00 65 FR 78418	(c)(143)(i)(B)(*18*)
Avery Dennison Co. (Fasson Roll Division)—Quakertown.	OP–09–0001A	Bucks	10/2/97	12/15/00 65 FR 78418	(c)(143)(i)(B)(*19*)
Cabot Performance Materials—Boyertown.	OP–46–0037	Montgomery	4/13/99	12/15/00 65 FR 78418	(c)(143)(i)(B)(*20*)
Cleveland Steel Container Corp.—Quakertown.	OP–09–0022	Bucks	9/30/96	12/15/00 65 FR 78418	(c)(143)(i)(B)(*21*)
CMS Gilbreth Packaging Systems—Bristol.	OP–09–0036	Bucks	1/7/97	12/15/00 65 FR 78418	(c)(143)(i)(B)(*22*)
CMS Gilbreth Packaging Systems—Bensalem.	OP–09–0037	Bucks	4/10/97	12/15/00 65 FR 78418	(c)(143)(i)(B)(*23*)
Congoleum Corp.—Marcus Hook	OP–23–0021	Delaware	12/31/98	12/15/00 65 FR 78418	(c)(143)(i)(B)(*24*)
Epsilon Products Co.—Marcus Hook	OP–23–0012	Delaware	2/15/96	12/15/00 65 FR 78418	(c)(143)(i)(B)(*25*)
Foamex International,—Eddystone	OP–23–0006A	Delaware	3/30/99	12/15/00 65 FR 78418	(c)(143)(i)(B)(*26*)
Forms, Inc., Spectra Graphics Willow Grove.	OP–46–0023	Montgomery	11/9/95 3/25/98	12/15/00 65 FR78418	(c)(143)(i)(B)(*27*)
Global Packaging, Inc. (formerly BG Packaging—Oaks).	OP–46–0026	Montgomery	8/30/96 12/24/97	12/15/00 65 FR78418	(c)(143)(i)(B)(*28*)
Jefferson Smurfit Corp. (Container Corp. of Amer.)—Oaks.	OP–46–0041	Montgomery	4/18/97	12/15/00 65 FR78418	(c)(143)(i)(B)(*29*)
Jefferson Smurfit Corp. (Container Corp. of Amer.)—North Wales.	OP–46–0062	Montgomery	7/15/96	12/15/00 65 FR 78418	(c)(143)(i)(B)(*30*)
Lonza, Inc.—Conshohocken	OP–46–0025	Montgomery	4/22/97 6/16/98	12/15/00 65 FR 78418	(c)(143)(i)(B)(*31*)
Markel Corporation	OP–46–0081	Montgomery	4/9/99	12/15/00 65 FR 78418	(c)(143)(i)(B)(*32*)
McCorquodale Security Cards, Inc.—West Whiteland.	OP–15–0037	Chester	9/3/96	12/15/00 65 FR 78418	(c)(143)(i)(B)(*33*)
Mike-Rich, Inc. (MRI)—Newtown	OP–09–0021	Bucks	12/20/96	12/15/00 65 FR 78418	(c)(143)(i)(B)(*34*)
Minnesota Mining and Manufacturing (3M) Company—Bristol.	CP–09–0005	Bucks	8/8/96	12/15/00 65 FR 78418	(c)(143)(i)(B)(*35*)
MM Biogas Power LLC (formerly O'Brien Environmental Energy, Inc.).	CP–46–0067	Montgomery	10/31/97	12/15/00 65 FR 78418	(c)(143)(i)(B)(*36*)
Norwood Industries, Inc.—Frazer	OP–15–0014A	Chester	12/20/96 12/2/99	12/15/00 65 FR 78418	(c)(143)(i)(B)(*37*)
NVF Company	OP–15–0030	Chester	4/13/99	12/15/00 65 FR 78418	(c)(143)(i)(B)(*38*)

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Occidental Chemical Corp. (Vinyls Div.)—Pottstown.	OP–46–0015	Montgomery	11/7/96	12/15/00 65 FR 78418	(c)(143)(i)(B)(*39*)
Philadelphia Newspapers, Inc. (Schuylkill Printing Plant).	OP–46–0012	Montgomery	8/30/96 3/15/00	12/15/00 65 FR 78418	(c)(143)(i)(B)(*40*)
The Proctor and Gamble Paper Products Co..	OP–66–0001	Wyoming	4/4/97	12/15/00 65 FR 78418	(c)(143)(i)(B)(*41*)
Quebecor Printing Atglen, Inc.—Atglen	OP–15–0002	Chester	12/10/96	12/15/00 65 FR 78418	(c)(143)(i)(B)(*42*)
Sartomer Company, Inc.	OP–15–0015	Chester	1/17/96 3/25/98	12/15/00 65 FR 78418	(c)(143)(i)(B)(*43*)
Silberline Manufacturing Co.	OP–54–0041	Schuylkill	4/19/99	12/15/00 65 FR 78418	(c)(143)(i)(B)(*44*)
SmithKline Beecham Research Co. (formerly Sterling Winthrop, Inc.).	OP–46–0031	Montgomery	10/31/97 5/1/98	12/15/00 65 FR 78418	(c)(143)(i)(B)(*45*)
Sullivan Graphics, Inc.—York	OP–67–2023	York	8/22/95	12/15/00 65 FR 78418	(c)(143)(i)(B)(*46*)
Sun Company, Inc (R&M) (formerly Chevron USA)—Tinicum.	OP–23–0010	Delaware	10/31/96	12/15/00 65 FR 78418	(c)(143)(i)(B)(*47*)
Sun Company, Inc (R&M) (formerly Chevron USA)—Darby.	OP–23–0011	Delaware	10/31/96	12/15/00 65 FR 78418	(c)(143)(i)(B)(*48*)
Universal Packaging Corporation	OP–46–0156	Montgomery	4/8/99	12/15/00 65 FR 78418	(c)(143)(i)(B)(*49*)
Zenith Products Corp.—Aston	OP–23–0008	Delaware	4/7/97	12/15/00 65 FR 78418	(c)(143)(i)(B)(*50*)
Budd Company	PLID 51–1564	Philadelphia	12/28/95	12/15/00 65 FR 78418	(c)(143)(i)(B)(*51*)
Bellevue Cogeneration Plant	PLID (51–) 6513	Philadelphia	4/10/95	12/15/00 65 FR 78418	(c)(143)(i)(B)(*52*)
MSC PreFinish Metals, Inc.—Morrisville.	OP–09–0030	Bucks	11/7/96 3/31/98	12/15/00 65 FR 78418	(c)(143)(i)(B)(*53*)
Temple University, Health Sciences Center.	PLID (51–) 8906	Philadelphia	5/27/95	12/15/00 65 FR 78418	(c)(143)(i)(B)(*54*)
TRIGEN—Schuylkill Station	PLID (51–)4942	Philadelphia	5/29/95	12/15/00 65 FR 78418	(c)(143)(i)(B)(*55*)
TRIGEN—Edison Station	PLID (51–)4902	Philadelphia	5/29/95	12/15/00 65 FR 78418	(c)(143)(i)(B)(*56*)
Advanced Glassfiber Yarns LLC (formerly Owens Corning)—Huntingdon.	OP–31–02002	Huntingdon	4/13/99	08/06/01 66 FR 40891	(c)(149)(i)(B)(*1*)
Armstrong World Industries, Inc.—Beech Creek.	OP–18–0002	Clinton	7/6/95	08/06/01 66 FR 40891	(c)(149)(i)(B)(*2*)
Bemis Company, Film Division	OP–40–0007A	Luzerne	10/10/95	08/06/01 66 FR 40891	(c)(149)(i)(B)(*3*)
Brentwood Industries, Inc	PA–06–1006A	Berks	6/3/99	08/06/01 66 FR 40891	(c)(149)(i)(B)(*4*)
Certainteed Corp.—Mountaintop	OP–40–0010	Luzerne	5/31/96	08/06/01 66 FR 40891	(c)(149)(i)(B)(*5*)
CNG Transmission Corp.—Ardell Station.	OP–24–120	Elk	9/30/95	08/06/01 66 FR 40891	(c)(149)(i)(B)(*6*)
CNG Transmission Corp.—Finnefrock Station.	PA–18–0003A	Clinton	2/29/96	08/06/01 66 FR 40891	(c)(149)(i)(B)(*7*)
Consol Pennsylvania Coal Company—Bailey Prep Plant.	OP–30–000–072	Greene	3/23/99	08/06/01 66 FR 40891	(c)(149)(i)(B)(*8*)
Consolidated Rail Corp. (CONRAIL)—Hollidaysburg Car Shop.	OP–07–2002	Blair	8/29/95	08/06/01 66 FR 40891	(c)(149)(i)(B)(*9*)
Consolidated Rail Corp. (CONRAIL)—Juniata.	OP–07–2003	Blair	8/29/95	08/06/01 66 FR 40891	(c)(149)(i)(B)(*10*)
Containment Solutions, Inc. (formerly called Fluid Containment—Mt. Union).	OP–31–02005	Huntingdon	4/9/99	08/06/01 66 FR 40891	(c)(149)(i)(B)(*11*)
Cooper Energy Systems, Grove City	OP–43–003	Mercer	7/25/96	08/06/01 66 FR 40891	(c)(149)(i)(B)(*12*)
Cyprus Cumberland Resources Corp.	OP–30–000–040	Greene	3/26/99	08/06/01 66 FR 40891	(c)(149)(i)(B)(*13*)
Defense Distribution—Susquehanna	OP–67–02041	York	2/1/00	08/06/01 66 FR 40891	(c)(149)(i)(B)(*14*)
EMI Company	OP–25–070	Erie	10/24/96	08/06/01 66 FR 40891	(c)(149)(i)(B)(*15*)
Empire Sanitary Landfill, Inc.	OP–35–0009	Lackawanna	10/17/96	08/06/01 66 FR 40891	(c)(149)(i)(B)(*16*)

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Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Equitrans, Inc.—Rogersville Station	(OP)30–000–109 ..	Greene	7/10/95	08/06/01 ..... 66 FR 40891	(c)(149)(i)(B)(*17*)
Equitrans, Inc.—Pratt Station	(OP)30–000–110 ..	Greene	7/10/95	08/06/01 ..... 66 FR 40891	(c)(149)(i)(B)(*18*)
Erie Coke Corporation—Erie	OP–25–029	Erie	6/27/95	08/06/01 ..... 66 FR 40891	(c)(149)(i)(B)(*19*)
Fleetwood Folding Trailers, Inc.—Somerset.	(OP)56–000–151 ..	Somerset	2/28/96	08/06/01 ..... 66 FR 40891	(c)(149)(i)(B)(*20*)
Gichner Systems Group, Inc.	(OP)67–2033	York	8/5/97	08/06/01 ..... 66 FR 40891	(c)(149)(i)(B)(*21*)
Offset Paperback Manufacturers, Inc.—Dallas.	(OP)40–0008	Luzerne	4/16/99	08/06/01 ..... 66 FR 40891	(c)(149)(i)(B)(*22*)
Overhead Door Corporation—Mifflin County.	(OP)44–2011	Mifflin	6/4/97	08/06/01 ..... 66 FR 40891	(c)(149)(i)(B)(*23*)
SANYO Audio Manufacturing (USA) Corp.	(OP)44–2003	Mifflin	6/30/95	08/06/01 ..... 66 FR 40891	(c)(149)(i)(B)(*24*)
Stroehmann Bakeries—Luzerne County.	(OP)40–0014A	Luzerne	5/30/95	08/06/01 ..... 66 FR 40891	(c)(149)(i)(B)(*25*)
Merck and Co., Inc.—West Point Facility.	OP–46–0005	Montgomery	1/13/97 6/23/00	04/18/01 ..... 66 FR 19858	(c)(154)(i)(D)
Amerada Hess Corp.	PA–PLID (51–) 5009.	Philadelphia	5/29/95	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*1*)
Amoco Oil Company	PA–PLID (51–) 5011.	Philadelphia	5/29/95	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*2*)
Cartex Corporation	OP–09–0076	Bucks	4/9/99	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*3*)
Exxon Company, USA	PA–PLID (51–) 5008.	Philadelphia	5/29/95	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*4*)
GATX Terminals Corporation	PA–PLID (51–) 5003.	Philadelphia	5/29/95	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*5*)
Hatfield Quality Meats, Inc.—Hatfield ..	OP–46–0013A	Montgomery	1/9/97 10/1/98	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*6*)
J. L. Clark, Inc.	OP–36–02009	Lancaster	4/16/99	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*7*)
Johnson Matthey, Inc.—Wayne	OP–15–0027	Chester	8/3/98 4/15/99	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*8*)
Kurz Hastings, Inc.	PA–PLID (51–) 1585.	Philadelphia	5/29/95	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*9*)
Lawrence McFadden, Inc.	PA–PLID (51–) 2074.	Philadelphia	6/11/97	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*10*)
Philadelphia Baking Company	PA–PLID (51–) 3048.	Philadelphia	4/10/95	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*11*)
Philadelphia Gas Works—Passyunk ...	PA–PLID (51–)– 4921.	Philadelphia	5/29/95	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*12*)
PPG Industries, Inc. (BASF)	OP–23–0005	Delaware	6/4/97	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*13*)
SmithKline Beecham Pharmaceuticals	OP–46–0035	Montgomery	3/27/97 10/20/98	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*14*)
Teva Pharmaceuticals USA (formerly Lemmon Company).	OP–09–0010	Bucks	4/9/99	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*15*)
The Philadelphian Condominium Building.	PA–PLID (51–) 6512.	Philadelphia	5/29/95	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*16*)
Warner Company	OP–15–0001	Chester	7/17/95	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*17*)
Webcraft Technologies, Inc.	PO–09–0009	Bucks	4/18/96 10/15/98	10/31/01 ..... 66 FR 54936	(c)(156)(i)(B)(*18*)
Latrobe Steel Company—Latrobe	PO–65–000–016 ...	Westmoreland	12/22/95	10/16/01 ..... 66 FR 52517	(c)(158)(i)(B)
Allegheny Ludlum Corporation—Brackenridge.	CO–260	Allegheny	12/19/96	10/18/01 ..... 66 FR 52851	(c)(159)(i)(B)
Kosmos Cement Co.—Neville Island Facility.	EO–208	Allegheny	12/19/96	10/18/01 ..... 66 FR 52857	(c)(160)(i)(B)(*1*)
Armstrong Cement and Supply Company—Cabot.	OP–10–028	Butler	3/31/99	10/18/01 ..... 66 FR 52857	(c)(160)(i)(B)(*2*)
Duquesne Light Company—Cheswick Power Station.	CO–217	Allegheny	3/8/96	10/18/01 ..... 66 FR 52867	(c)(161)(i)(B)(*1*)
Duquesne Light Company—Elrama Plant.	(PA)63–000–014 ...	Washington	12/29/94	10/18/01 ..... 66 FR 52867	(c)(161)(i)(B)(*2*)

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Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Pennsylvania Electric Co. (PENELEC)— Keystone Generating Station.	(PA)03–000–027 ...	Armstrong	12/29/94	10/18/01 ..... 66 FR 52867	(c)(161)(i)(B)(*3*)
IDL, Incorporated	CO–225	Allegheny	7/18/96	10/18/01 ..... 66 FR 52862	(c)(162)(i)(B)(*1*)
Oakmont Pharmaceutical, Inc.	CO–252	Allegheny	12/19/96	10/18/01 ..... 66 FR 52862	(c)(162)(i)(B)(*2*)
U.S. Air, Inc.	CO–255	Allegheny	1/14/97	10/18/01 ..... 66 FR 52862	(c)(162)(i)(B)(*3*)
Lukens Steel Corporation Houston Plant.	(OP)63–000–080 ..	Washington	2/22/99	10/16/01 ..... 66 FR 52522	(c)(163)(i)(B)(*1*)
Allegheny Ludlum Steel Corporation—West Leechburg Plant.	(OP)65–000–183 ..	Westmoreland	3/23/99	10/16/01 ..... 66 FR 52522	(c)(163)(i)(B)(*2*)
(Allegheny Ludlum Corporation) Jessop Steel Company—Washington Plant.	(OP)63–000–027 ..	Washington	3/26/99	10/16/01 ..... 66 FR 52522	(c)(163)(i)(B)(*3*)
Koppel Steel Corporation—Koppel Plant.	(OP)04–000–059 ..	Beaver	3/23/01	10/16/01 ..... 66 FR 52522	(c)(163)(i)(D)
Consolidated Natural Gas (CNG) Transmission Corp.—Beaver Station.	OP–04–000–490 ...	Beaver	6/23/95	10/12/01 ..... 66 FR 52055	(c)(164)(i)(B)(*1*)
Consolidated Natural Gas (CNG) Transmission Corp.—Oakford Compressor Station.	PO–65–000–837 ...	Westmoreland	10/13/95	10/12/01 ..... 66 FR 52055	(c)(164)(i)(B)(*2*)
Consolidated Natural Gas (CNG) Transmission Corp.—South Oakford Station.	(OP)65–000–840 ..	Westmoreland	10/13/95	10/12/01 ..... 66 FR 52055	(c)(164)(i)(B)(*3*)
Consolidated Natural Gas (CNG) Transmission Corp.—Tonkin Compressor Station.	(OP)65–000–634 ..	Westmoreland	10/13/95	10/12/01 ..... 66 FR 52055	(c)(164)(i)(B)(*4*)
Consolidated Natural Gas (CNG) Transmission Corp.—Jeannette Station.	(OP)65–000–852 ..	Westmoreland	10/13/95	10/12/01 ..... 66 FR 52055	(c)(164)(i)(B)(*5*)
Carnegie Natural Gas Co.—Creighton Station.	EO–213	Allegheny	5/14/96	10/12/01 ..... 66 FR 52055	(c)(164)(i)(B)(*6*)
Texas Eastern Transmission Corp.—Uniontown Station.	(OP)26–000–413 ..	Fayette	12/20/96	10/12/01 ..... 66 FR 52055	(c)(164)(i)(B)(*7*)
Consolidated Natural Gas (CNG) Transmission Corp.—South Bend Station.	OP–03–000–180 ...	Armstrong	12/2/98	10/12/01 ..... 66 FR 52055	(c)(164)(i)(B)(*8*)
Pruett Schaffer Chemical Company	CO–266	Allegheny	9/2/98	10/12/01 ..... 66 FR 52050	(c)(165)(i)(B)(*1*)
PPG Industries, Inc.—Springdale	CO–254	Allegheny	12/19/96	10/12/01 ..... 66 FR 52050	(c)(165)(i)(B)(*2*)
Reichhold Chemicals, Inc.—Bridgeville	CO–218	Allegheny	12/19/96	10/12/01 ..... 66 FR 52050	(c)(165)(i)(B)(*3*) [NO_X RACT]
Reichhold Chemicals, Inc.—Bridgeville	CO–219	Allegheny	2/21/96	10/12/01 ..... 66 FR 52050	(c)(165)(i)(B)(*4*) [VOC RACT]
Valspar Corporation—Pittsburgh	CO–209	Allegheny	3/8/96	10/12/01 ..... 66 FR 52050	(c)(165)(i)(B)(*5*)
Ashland Chemical Corporation	CO–227	Allegheny	12/30/96	10/16/01 ..... 66 FR 52506	(c)(166)(i)(B)(*1*)
Hercules, Inc.—West Elizabeth	EO216	Allegheny	3/8/96	10/16/01 ..... 66 FR 52506	(c)(166)(i)(B)(*2*)
Hercules, Inc.—West Elizabeth	CO–257	Allegheny	1/14/97 11/1/99	10/16/01 ..... 66 FR 52506	(c)(166)(i)(B)(*3*)
Neville Chemical Company	CO–230	Allegheny	12/13/96	10/16/01 ..... 66 FR 52506	(c)(166)(i)(B)(*4*)
Anchor Glass Container Corp.—Plant 5.	(PA)26–000–119 ...	Fayette	12/20/96	10/16/01 ..... 66 FR 52527	(c)(167)(i)(B)(*1*)
Anchor Hocking Specialty Glass Co.—Phoenix Glass Plant.	(OP)04–000–084 ..	Beaver	10/13/95	10/16/01 ..... 66 FR 52527	(c)(167)(i)(B)(*2*)
Corning Consumer Products Co.—Charleroi Plant.	(PA)63–000–110 ...	Washington	1/4/96	10/16/01 ..... 66 FR 52527	(c)(167)(i)(B)(*3*)
General Electric Company	CO–251	Allegheny	12/19/96	10/16/01 ..... 66 FR 52527	(c)(167)(i)(B)(*4*)
Glenshaw Glass Company, Inc.	CO–270	Allegheny	3/10/00	10/16/01 ..... 66 FR 52527	(c)(167)(i)(B)(*5*)
Guardian Industries Corp.	CO–242	Allegheny	8/27/96	10/16/01 ..... 66 FR 52527	(c)(167)(i)(B)(*6*)

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Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Allegheny County Sanitary Authority ...	CO–222	Allegheny	5/14/96	10/16/01 ..... 66 FR 52527	(c)(167)(i)(B)(*7*)
Browning-Ferris Industries, ...	CO–231A	Allegheny	4/28/97	10/16/01 ..... 66 FR 52527	(c)(167)(i)(B)(*8*)
Chambers Development Company—Monroeville Borough Landfill.	CO–253	Allegheny	12/30/96	10/16/01 ..... 66 FR 52527	(c)(167)(i)(B)(*9*)
Kelly Run Sanitation, Forward Township Landfill.	CO–236	Allegheny	1/23/97	10/16/01 ..... 66 FR 52527	(c)(167)(i)(B)(*10*)
Stroehmann Bakeries—Montgomery County (Norristown).	PA–46–0003	Montgomery	5/4/95	10/31/01 ..... 66 FR 54942	(c)(169)(i)(B)(*1*)
Schlosser Steel, Inc.	OP–46–0051	Montgomery	2/1/96	10/31/01 ..... 66 FR 54942	(c)(169)(i)(B)(*2*)
Perkasie Industries Corp.—Perkasie ...	OP–09–0011	Bucks	8/14/96	10/31/01 ..... 66 FR 54942	(c)(169)(i)(B)(*3*)
Quaker Chemical Corporation—Conshohocken.	OP–46–0071	Montgomery	9/26/96	10/31/01 ..... 66 FR 54942	(c)(169)(i)(B)(*4*)
Worthington Steel Company	OP–15–0016	Chester	7/23/96	10/31/01 ..... 66 FR 54942	(c)(169)(i)(B)(*5*)
Transcontinental Gas Pipeline Corp.—Sta. 200, Frazer.	PA–15–0017	Chester	6/5/95	10/31/01 ..... 66 FR 54942	(c)(169)(i)(B)(*6*)
Rohm and Haas Company, Bucks County Plant.	OP–09–0015	Bucks	4/20/99	10/31/01 ..... 66 FR 54942	(c)(169)(i)(B)(*7*)
SEPTA-Berridge/Courtland Maintenance Shop.	PA–51–4172	Philadelphia	7/27/99	10/31/01 ..... 66 FR 54942	(c)(169)(i)(B)(*8*)
Southwest Water Pollution Control Plant/Biosolids Recycling Center.	PA–51–9515	Philadelphia	7/27/99	10/31/01 ..... 66 FR 54942	(c)(169)(i)(B)(*9*)
Rohm and Haas Company Philadelphia Plant.	PA–51–1531	Philadelphia	7/27/99	10/31/01 ..... 66 FR 54942	(c)(169)(i)(B)(*10*)
Sunoco Inc. (R&M)—Philadelphia Division.	PA(51–)1501 ..... PA(51–)1517	Philadelphia	8/1/00	10/31/01 ..... 66 FR 54942	(c)(169)(i)(B)(*11*)
SBF Communications (owned by Avant Garde Ent.).	PA(51–)2197	Philadelphia	7/21/00	10/31/01 ..... 66 FR 54942	(c)(169)(i)(B)(*12*)
Smith-Edwards-Dunlap Company	PA–(51–)2255	Philadelphia	7/14/00	10/31/01 ..... 66 FR 54942	(c)(169)(i)(B)(*13*)
Tasty Baking Co.	PLID ..... (51–)2054	Philadelphia	4/9/95	10/31/01 ..... 66 FR 54942	(c)(169)(i)(B)(*14*)
Armstrong World Industries, Inc.—Beaver Falls Plant.	(OP)04–000–108 ..	Beaver	5/29/96	10/17/01 ..... 66 FR 52695	(c)(170)(i)(B)(*1*)
Bacharach, Inc	CO–263	Allegheny	10/10/97	10/17/01 ..... 66 FR 52695	(c)(170)(i)(B)(*2*)
Bakerstown Container Corporation	CO–221	Allegheny	5/14/96	10/17/01 ..... 66 FR 52695	(c)(170)(i)(B)(*3*)
Chestnut Ridge Foam, Inc.—Latrobe ..	(OP)65–000–181 ..	Westmoreland	12/29/95	10/17/01 ..... 66 FR 52695	(c)(170)(i)(B)(*4*)
Flexsys America LP, Monongahela Plant.	(OP)63–000–015 ..	Washington	3/23/01	10/17/01 ..... 66 FR 52695	(c)(170)(i)(B)(*5*)
Haskell of Pittsburgh, Inc.	CO–224	Allegheny	12/19/96	10/17/01 ..... 66 FR 52695	(c)(170)(i)(B)(*6*)
Three Rivers Aluminum Company (TRACO).	OP–10–267	Butler	3/1/01	10/17/01 ..... 66 FR 52695	(c)(170)(i)(B)(*7*)
Tuscarora Plastics, Inc.	(OP)04–000–497 ..	Beaver	4/3/96	10/17/01 ..... 66 FR 52695	(c)(170)(i)(B)(*8*)
Witco Corporation	CO–210	Allegheny	5/14/96	10/17/01 ..... 66 FR 52695	(c)(170)(i)(B)(*9*)
GenCorp (Plastic Films Division)—Jeannette Plant.	(OP)65–000–207 ..	Westmoreland	1/4/96	10/15/01 ..... 66 FR 52322	(c)(171)(i)(B)
CENTRIA—Ambridge Coil Coating Operations Plant.	(OP)04–000–043 ..	Beaver	5/17/99	10/15/01 ..... 66 FR 52322	(c)(171)(i)(D)
J & L Structural, Inc.—Aliquippa	OP–04–000–467 ...	Beaver	6/23/95	10/16/01 ..... 66 FR 52511	(c)(172)(i)(B)(*1*)
Universal Stainless & Alloy Products, Inc..	CO–241	Allegheny	12/19/96	10/16/01 ..... 66 FR 52511	(c)(172)(i)(B)(*2*)
Shenango, Inc.	CO–233	Allegheny	12/30/96	10/16/01 ..... 66 FR 52511	(c)(172)(i)(B)(*3*)
LTV Steel Company	CO–259	Allegheny	12/30/96	10/16/01 ..... 66 FR 52511	(c)(172)(i)(B)(*4*)
U.S. Steel (USX Corporation)—Clairton Works.	CO–234	Allegheny	12/30/96	10/16/01 ..... 66 FR 52511	(c)(172)(i)(B)(*5*)

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
USX Corporation—Edgar Thomson Works.	CO–235	Allegheny	12/30/96	10/16/01 66 FR 52511	(c)(172)(i)(B)(*6*)
USX, Inc.—Irvin Works	CO–258	Allegheny	12/30/96	10/16/01 66 FR 52511	(c)(172)(i)(B)(*7*)
Wheeling-Pittsburgh Steel Corporation—Allenport Plant.	(OP)63–000–066	Washington	2/8/99	10/16/01 66 FR 52511	(c)(172)(i)(B)(*8*)
Koppers-Monessen Coke Plant	(OP)65–000–853	Westmoreland	3/20/98	10/16/01 66 FR 52511	(c)(172)(i)(B)(*9*)
J & L Specialty Steel, Inc.—Midland Facility.	(OP)04–000–013	Beaver	3/23/01	10/16/01 66 FR 52511	(c)(172)(i)(B)(*10*)
Washington Steel Corp.—Washington Plant.	(OP)63–000–023	Washington	9/12/96	10/16/01 66 FR 52511	(c)(172)(i)(B)(*11*)
Equitrans, Inc.—Hartson	(OP)63–000–642	Washington	7/10/95	10/17/01 66 FR 52705	(c)(173)(i)(B)(*1*)
Witco Corp.—Petrolia Facility	PA–10–037	Butler	6/27/95	10/17/01 66 FR 52705	(c)(173)(i)(B)(*2*)
Ranbar Electrical Materials Inc. (formerly Westinghouse Electric Co. EMD—Manor.	(OP)65–000–042	Westmoreland	2/22/99	10/17/01 66 FR 52705	(c)(173)(i)(B)(*3*)
Nova Chemicals, Inc. (formerly Arco Chemical Co.—Beaver Valley).	(OP)04–000–033	Beaver	4/16/99 1/24/01	10/17/01 66 FR 52705	(c)(173)(i)(B)(*4*)
BASF Corporation—Monaca Site	(OP)04–000–306	Beaver	3/23/01	10/17/01 66 FR 52705	(c)(173)(i)(B)(*5*)
Cardone Industries—Rising Sun Ave.	PA(51–) PLID 3887.	Philadelphia	5/29/95	10/30/01 66 FR 54710	(c)(174)(i)(B)(*1*)
Cardone Industries—Chew St.	PA(51–) PLID 2237.	Philadelphia	5/29/95	10/30/01 66 FR 54710	(c)(174)(i)(B)(*2*)
U.S. Navy, Naval Surface Warfare Center—Carderock.	PA(51–)9724	Philadelphia	12/27/97	10/30/01 66 FR 54710	(c)(174)(i)(B)(*3*)
Wheelabrator Falls, Inc.	OP–09–0013	Bucks	1/11/96 5/17/96	10/30/01 66 FR 54710	(c)(174)(i)(B)(*4*)
US Steel Group/USX Corporation—Fairless Works.	OP–09–0006	Bucks	4/8/99	10/30/01 66 FR 54710	(c)(174)(i)(B)(*5*)
Brown Printing Company	OP–46–0018A	Montgomery	5/17/00	10/30/01 66 FR 54710	(c)(174)(i)(B)(*6*)
Sun Chemical—General Printing Ink Division.	PA(51–)2052	Philadelphia	7/14/00	10/30/01 66 FR 54710	(c)(174)(i)(B)(*7*)
Sunoco Chemicals, Frankford Plant	PA(51–)1551	Philadelphia	7/27/99	10/30/01 66 FR 54710	(c)(174)(i)(B)(*8*)
Armco, Inc. Butler Operations Main Plant.	PA–10–001M	Butler	2/23/96	10/15/01 66 FR 52338	(c)(175)(i)(B)
Armco, Inc. Butler Operations Stainless Plant.	PA–10–001S	Butler	2/23/96	10/15/01 66 FR 52338	(c)(175)(i)(C)
Pennsylvania Power Co.—Bruce Mansfield Plant.	(PA)04–000–235	Beaver	12/29/94	10/15/01 66 FR 52333	(c)(176)(i)(B)(*1*)
West Penn Power Co.—Mitchell Station.	(PA)63–000–016	Washington	6/12/95	10/15/01 66 FR 52333	(c)(176)(i)(B)(*2*)
Carnegie Natural Gas Company—Fisher Station.	(OP)03–000–182	Armstrong	12/2/98	10/15/01 66 FR 52333	(c)(176)(i)(B)(*3*)
Apollo Gas Company—Shoemaker Station.	(OP)03–000–183	Armstrong	9/12/96	10/15/01 66 FR 52333	(c)(176)(i)(B)(*4*)
Texas Eastern Transmission Corp.—Delmont Station.	(OP)65–000–839	Westmoreland	1/9/97	10/15/01 66 FR 52333	(c)(176)(i)(B)(*5*)
The Peoples Natural Gas Co.—Valley Station.	(OP)03–000–125	Armstrong	10/31/94	10/15/01 66 FR 52333	(c)(176)(i)(B)(*6*)
The Peoples Natural Gas Co.—Girty Compressor Station.	(PA)03–000–076	Armstrong	10/27/95	10/15/01 66 FR 52333	(c)(176)(i)(B)(*7*)
AES Beaver Valley Partners—Monaca Plant.	(OP)04–000–446	Beaver	3/23/01	10/15/01 66 FR 52333	(c)(176)(i)(B)(*8*)
Penreco—Karns City	OP–10–0027	Butler	5/31/95	10/12/01 66 FR 52044	(c)(177)(i)(B)(*1*)
Ashland Petroleum Company	CO–256	Allegheny	12/19/96	10/12/01 66 FR 52044	(c)(177)(i)(B)(*2*)
Bellefield Boiler Plant—Pittsburgh	EO–248	Allegheny	12/19/96	10/12/01 66 FR 52044	(c)(177)(i)(B)(*3*)
Gulf Oil, L.P.	CO–250	Allegheny	12/19/96	10/12/01 66 FR 52044	(c)(177)(i)(B)(*4*)
PA Dept. of Corrections	EO–244	Allegheny	1/23/97	10/12/01 66 FR 52044	(c)(177)(i)(B)(*5*)

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Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Pittsburgh Thermal Limited Partnership.	CO–220	Allegheny	3/4/96	10/12/01 66 FR 52044	(c)(177)(i)(B)(*6*)
BP Exploration & Oil, Inc.—Greensburg Terminal.	(OP)65–000–378	Westmoreland	3/23/01	10/12/01 66 FR 52044	(c)(177)(i)(B)(*7*)
Pittsburgh Allegheny County Thermal, Ltd..	CO–265	Allegheny	11/9/98	10/12/01 66 FR 52044	(c)(177)(i)(B)(*8*)
Aristech Chemical Corporation	CO–232	Allegheny	12/30/96	10/17/01 66 FR 52700	(c)(178)(i)(B)(*1*)
Heinz U.S.A.—Pittsburgh	EO–211	Allegheny	3/8/96	10/17/01 66 FR 52700	(c)(178)(i)(B)(*2*)
Heinz U.S.A.—Pittsburgh	CO–247	Allegheny	10/24/96	10/17/01 66 FR 52700	(c)(178)(i)(B)(*2*)
Koppers Industries, Inc. (Aristech Chem. Corp).	CO–223	Allegheny	8/27/96	10/17/01 66 FR 52700	(c)(178)(i)(B)(*3*)
Nabisco Biscuit Co.	CO–246	Allegheny	12/19/96	10/17/01 66 FR 52700	(c)(178)(i)(B)(*4*)
Pressure Chemical Co.	CO–261	Allegheny	6/11/97	10/17/01 66 FR 52700	(c)(178)(i)(B)(*5*)
General Carbide Corp.	(OP)65–000–622	Westmoreland	12/29/95	10/17/01 66 FR 52700	(c)(178)(i)(B)(*6*)
Fansteel Hydro Carbide	(OP)65–000–860	Westmoreland	12/12/97	10/17/01 66 FR 52700	(c)(178)(i)(B)(*7*)
Carbidie Corporation	(OP)65–000–720	Westmoreland	7/31/98	10/17/01 66 FR 52700	(c)(178)(i)(B)(*8*)
Dyno Nobel Inc.—Donora	(OP)63–000–070	Washington	3/31/99	10/17/01 66 FR 52700	(c)(178)(i)(B)(*9*)
Newcomer Products, Inc.	(OP)65–000–851	Westmoreland	8/7/97	10/17/01 66 FR 52700	(c)(178)(i)(B)(*10*)
PECO Energy Company—Cromby Generating Station.	OP–15–0019	Chester	4/28/95	10/30/01 66 FR 54699	(c)(179)(i)(B)(*1*)
Waste Resource Energy, Inc. (Operator); Shawmut Bank, Conn. National Assoc. (Owner); Delaware County Resource Recovery Facility.	OP–23–0004	Delaware	11/16/95	10/30/01 66 FR 54699	(c)(179)(i)(B)(*2*)
G-Seven, Ltd.	OP–46–0078	Montgomery	4/20/99	10/30/01 66 FR 54699	(c)(179)(i)(B)(*3*)
Leonard Kunkin Associates	OP–09–0073	Bucks	6/25/01	10/30/01 66 FR 54699	(c)(179)(i)(B)(*4*)
Kimberly-Clark Corporation	OP–23–0014A	Delaware	6/24/98 8/1/01	10/30/01 66 FR 54699	(c)(179)(i)(B)(*5*)
Sunoco, Inc. (R&M); Marcus Hook Plant.	CP–23–0001	Delaware	6/8/95 8/2/01	10/30/01 66 FR 54699	(c)(179)(i)(B)(*6*)
Waste Management Disposal Services of Pennsylvania, Inc. (GROWS Landfill).	OP–09–0007	Bucks	12/19/97 7/17/01	10/30/01 66 FR 54699	(c)(179)(i)(B)(*7*)
Koppel Steel Corporation—Ambridge Plant.	OP–04–000–227	Beaver	10/12/00	10/15/01 66 FR 52317	(c)(180)(i)(B)
General Motors Corporation	CO–243	Allegheny	8/27/96	10/15/01 66 FR 52327	(c)(181)(i)(B)(*1*)
Oakmont Steel, Inc.	CO–226	Allegheny	5/14/96	10/15/01 66 FR 52327	(c)(181)(i)(B)(*2*)
The Peoples Natural Gas Co.	CO–240	Allegheny	8/27/96	10/15/01 66 FR 52327	(c)(181)(i)(B)(*3*)
U.S. Bureau of Mines	EO–215	Allegheny	3/8/96	10/15/01 66 FR 52327	(c)(181)(i)(B)(*4*)
Waste Management Disposal Services of Pennsylvania (Pottstown Landfill).	OP–46–0033	Montgomery	4/20/99	10/30/01 66 FR 54704	(c)(182)(i)(B)(*1*)
FPL Energy MH50, LP (Sunoco, Inc. (R&M)).	PA–23–0084	Delaware	7/26/99	10/30/01 66 FR 54704	(c)(182)(i)(B)(*2*)
Exelon Generation Company—(PECO)—Richmond Generating Station.	PA–51–4903	Philadelphia	7/11/01	10/30/01 66 FR 54704	(c)(182)(i)(B)(*3*)
Jefferson Smurfit Corp./Container Corp. of America.	PLID (PA–51–) 1566.	Philadelphia	4/10/95	10/31/01 66 FR 54947	(c)(184)(i)(B)(*1*)
Maritank Philadelphia, Inc.	PLID (PA–51–) 5013.	Philadelphia	12/28/95	10/31/01 66 FR 54947	(c)(184)(i)(B)(*2*)
Moyer Packing Company	OP–46–0001	Montgomery	3/15/96	10/31/01 66 FR 54947	(c)(184)(i)(B)(*3*)

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Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Tullytown Resource Recovery Facility (Waste Management of Pa., Inc.).	OP–09–0024	Bucks	7/14/97	10/31/01 66 FR 54947	(c)(184)(i)(B)(*4*)
SPS Technologies, Inc.	OP–46–0032	Montgomery	10/30/97	10/31/01 66 FR 54947	(c)(184)(i)(B)(*5*)
PECO Energy Company	OP–09–0077	Bucks	12/19/97	10/31/01 66 FR 54947	(c)(184)(i)(B)(*6*)
Philadelphia Gas Works—Richmond Plant.	PA–51–4922	Philadelphia	7/27/99	10/31/01 66 FR 54947	(c)(184)(i)(B)(*7*)
Exelon Generation Company—Delaware Generating Station.	PA–51–4901	Philadelphia	7/11/01	10/31/01 66 FR 54947	(c)(184)(i)(B)(*8*)
Exelon Generation Company—Schuylkill Generating Station.	PA–51–4904	Philadelphia	7/11/01	10/31/01 66 FR 54947	(c)(184)(i)(B)(*9*)
International Business Systems, Inc.	OP–46–0049	Montgomery	10/29/98	10/30/01 66 FR 54691	(c)(185)(i)(B)(*1*)
Bethlehem Lukens Plate	OP–46–0011	Montgomery	12/11/98	10/30/01 66 FR 54691	(c)(185)(i)(B)(*2*)
Montenay Montgomery Limited Partnership.	OP–46–0010A	Montgomery	4/20/99 6/20/00	10/30/01 66 FR 5469	(c)(185)(i)(B)(*3*)
Northeast Foods, Inc. (Bake Rite Rolls).	OP–09–0014	Bucks	4/9/99	10/30/01 66 FR 54691	(c)(185)(i)(B)(*4*)
Aldan Rubber Company	PA–(51–)1561	Philadelphia	7/21/00	10/30/01 66 FR 54691	(c)(185)(i)(B)(*5*)
Braceland Brothers, Inc.	PA–(51–)3679	Philadelphia	7/14/00	10/30/01 66 FR 54691	(c)(185)(i)(B)(*6*)
Graphic Arts, Incorporated	PA–(51–)2260	Philadelphia	7/14/00	10/30/01 66 FR 54691	(c)(185)(i)(B)(*7*)
O'Brien (Philadelphia) Cogeneration, Inc.—Northeast Water Pollution Control Plant.	PA–(51–)1533	Philadelphia	7/21/00	10/30/01 66 FR 54691	(c)(185)(i)(B)(*8*)
O'Brien (Philadelphia) Cogeneration, Inc.—Southwest Water Pollution Control Plant.	PA–(51–)1534	Philadelphia	7/21/00	10/30/01 66 FR 54691	(c)(185)(i)(B)(*9*)
Pearl Pressman Liberty	PA–(51–)7721	Philadelphia	7/24/00	10/30/01 66 FR 54691	(c)(185)(i)(B)(*10*)
Arbill Industries, Inc.	PA–51–3811	Philadelphia	7/27/99	10/30/01 66 FR 54691	(c)(185)(i)(B)(*11*)
McWhorter Technologies, Inc.	PA–51–3542	Philadelphia	7/27/99	10/30/01 66 FR 54691	(c)(185)(i)(B)(*12*)
NortheastWater Pollution Control Plant	PA–51–9513	Philadelphia	7/27/99	10/30/01 66 FR 54691	(c)(185)(i)(B)(*13*)
Newman and Company	PLID (51–)3489	Philadelphia	6/11/97	10/30/01 66 FR 54691	(c)(185)(i)(B)(*14*)
Allegheny Ludlum Steel Corporation	(OP–)65–000–137	Westmoreland	5/17/99	10/19/01 66 FR 53090	(c)(186)(i)(B)(*1*)
INDSPEC Chemical Corporation	PA10–021	Butler	10/19/98	10/19/01 66 FR 53090	(c)(186)(i)(B)(*2*)
Stoney Creek Technologies, L.L.C.	PA–23–0002	Delaware	2/24/99	11/5/01 66 FR 55880	(c)(187)(i)(B)(*1*)
Superpac, Inc.	OP–09–0003	Bucks	3/25/99	11/5/01 66 FR 55880	(c)(187)(i)(B)(*2*)
Transit America, Inc.	PLID (51–)1563	Philadelphia	6/11/97	11/5/01 66 FR 55880	(c)(187)(i)(B)(*3*)
American Bank Note Company	OP–46–0075	Montgomery	5/19/97 8/10/98	11/5/01 66 FR 55880	(c)(187)(i)(B)(*4*)
Atlas Roofing Corporation—Quakertown.	OP–09–0039	Bucks	3/10/99	11/5/01 66 FR 55880	(c)(187)(i)(B)(*5*)
Beckett Corporation	OP–15–0040	Chester	7/8/97	11/5/01 66 FR 55880	(c)(187)(i)(B)(*6*)
Klearfold, Inc.	OP–09–0012	Bucks	4/15/99	11/5/01 66 FR 55880	(c)(187)(i)(B)(*7*)
National Label Company	OP–46–0040	Montgomery	7/28/97	11/5/01 66 FR 55880	(c)(187)(i)(B)(*8*)
Bethlehem Steel Corporation	OP–22–02012	Dauphin	4/9/99	5/23/02 67 FR 36108	(c)(191)
Hershey Chocolate USA	OP–22–2004A	Dauphin	1/24/00	6/26/02 67 FR 43002	(c)(194)(i)(B)(*1*)
Pennsylvania Power Company New Castle Plant.	OP–37–0023	Lawrence	4/8/99	6/26/02 67 FR 43002	(c)(194)(i)(B)(*2*)

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Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Lafarge Corporation	OP–39–0011B	Lehigh	5/19/97	4/1/03 68 FR 15661	(c)(196)(i)(B)(*1*)
The Peoples Natural Gas Company	(OP–)11–000–356	Cambria	11/23/94	4/1/03 68 FR 15661	(c)(196)(i)(B)(*2*)
Horsehead Resource Development Company, Inc..	OP–13–0001	Carbon	5/16/95	4/1/03 68 FR 15661	(c)(196)(i)(B)(*3*)
Williams Generation Company—Hazleton.	OP–40–0031A	Luzerne	3/10/00	4/1/03 68 FR 15661	(c)(196)(i)(B)(*4*)
Pennsylvania Power and Light Company, Holtwood Steam Electric Station.	PA–36–2016	Lancaster	5/25/95	4/1/03 68 FR 15661	(c)(196)(i)(B)(*5*)
General Electric Transportation Systems.	OP–25–025A	Erie	8/26/02	4/7/03 68 FR 16724	(c)(198)(i)(B)
Bethlehem Structural Products Corporation.	OP–48–0013	Northampton	10/24/96	5/2/03 68 FR 23404	(c)(200)(i)(B)(*1*)
International Paper Company, Erie Mill	PA–25–028	Erie	12/21/94	5/2/03 68 FR 23404	(c)(200)(i)(B)(*2*)
National Fuel Gas Supply—Heath Compressor Station.	PA–33–144A	Jefferson	10/5/98	5/2/03 68 FR 23404	(c)(200)(i)(B)(*3*)
PPG Industries, Inc.	OP–20–145	Crawford	5/31/95	3/24/03 68 FR 14154	(c)(201)(i)(B)
Dominion Trans., Inc.—Finnefrock Station.	Title V–18–00005	Clinton	2/16/00	5/7/03 68 FR 24365	(c)(202)(i)(B)(*1*)
Textron Lycoming—Oliver Street Plant	Title V–41–00005	Lycoming	1/12/01	5/7/03 68 FR 24365	(c)(202)(i)(B)(*2*)
Lafayette College, Easton Campus	OP–48–0034	Northampton	8/18/97	5/20/03 68 FR 27471	(c)(205)(i)(B)
Keystone Carbon Company	OP–24–016	Elk	5/15/95	10/17/03 68 FR 59741	(c)(207)(i)(B)(*1*)
Mack Trucks, Inc.	OP–39–0004	Northampton	5/31/95	10/17/03 68 FR 59741	(c)(207)(i)(B)(*1*)
Owens-Brockway Glass Container, Inc..	OP–33–033	Jefferson	3/27/95	10/17/03 68 FR 59741	(c)(207)(i)(B)(*1*)
Resilite Sport Products, Inc.	OP–49–0003	Northumberland	12/3/96	10/17/03 68 FR 59741	(c)(207)(i)(B)(*1*)
Westfield Tanning Company	OP–59–0008	Tioga	11/27/96	10/17/03 68 FR 59741	(c)(207)(i)(B)(*1*)
Tarkett, Incorporated	OP–39–0002	Lehigh	5/31/95	8/6/03 68 FR 46487	(c)(208)(i)(B)(*1*)
Hacros Pigments, Inc.	OP–48–0018	Northampton	7/31/96	8/6/03 68 FR 46487	(c)(208)(i)(B)(*2*)
GPU Generation Corp., Homer City Station.	(OP–)32–000–055	Indiana	0/29/98	10/15/03 68 FR 59321	(c)(212)(i)(B)(*1*)
GPU Generation Corp., Seward Station.	(OP–)32–000–040	Indiana	4/30/98	10/15/03 68 FR 59321	(c)(212)(i)(B)(*2*)
Ebensburg Power Company, Ebensburg Cogeneration Plant.	(OP–)11–000–318	Cambria	3/28/01	10/15/03 68 FR 59321	(c)(212)(i)(B)(*3*)
Sithe Pennsylvania Holdings, LLC, Warren Station.	OP–62–012B	Warren	1/20/00	10/15/03 68 FR 59321	(c)(212)(i)(B)(*4*)
Pennsylvania Power & Light Company, Sunbury SES.	OP–55–0001A	Snyder	7/7/97	10/15/03 68 FR 59321	(c)(212)(i)(B)(*5*)
Lakeview Landfill	OP–25–920	Erie	5/29/97	10/15/03 68 FR 59321	(c)(212)(i)(B)(*6*)
National Fuel Gas Supply Corp.—Roystone Compressor Station.	OP 62–141F	Warren	4/1/03	10/27/04 69 FR 62583	(c)(213)(i)(B)(*1*)
Crompton Corporation, Fairview Township.	OP–10–037	Butler	6/4/03	5/25/04 69 FR 29444	(c)(213)(i)(B)(*2*)
Andritz, Inc.	41–00010C	Lycoming	4/30/03	10/15/03 68 FR 59318	(c)(214)(i)(B)(*1*)
Brodart Company	18–0007A	Clinton	4/8/03	10/15/03 68 FR 59318	(c)(214)(i)(B)(*2*)
Erie Sewer Authority	OP–25–179	Erie	6/5/03	10/15/03 68 FR 59318	(c)(214)(i)(B)(*3*)
Hercules Cement Company	OP–48–0005A	Northampton	4/16/99	11/24/03 68 FR 65846	(c)(217)(i)(B)
Tennessee Gas Pipeline Company, Station 321.	OP 58–00001A	Susquehanna	4/16/98	10/27/04 69 FR 62585	(c)(218)(i)(B)(*1*)
Tennessee Gas Pipeline Company, Station 219.	OP 43–0272	Mercer	4/7/99	10/27/04 69 FR 62585	(c)(218)(i)(B)(*2*)

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Information Display Technology, Inc. ..	32–000–085	Indiana	1/11/962	03/29/05 ..... 70 FR 15774	52.2020(d)(1)(h)
Bedford Materials Co., Inc.	05–02005	Bedford	4/15/99	03/29/05 ..... 70 FR 15774	52.2020(d)(1)(h)
Bollman Hat Company	36–2031	Lancaster	7/3/95	03/29/05 ..... 70 FR 15774	52.2020(d)(1)(h)
Armco Inc.	OP 43–040	Mercer	9/30/99	03/29/05 ..... 70 FR 15774	52.2020(d)(1)(h)
Specialty Tires of America, Inc.	32–000–065	Indiana	1/6/00	03/29/05 ..... 70 FR 15774	52.2020(d)(1)(h)
Truck Accessories Group East	OP–49–0005	Northumberland	3/26/99	03/29/05 ..... 70 FR 15774	52.2020(d)(1)(h)
Jeraco Enterprises, Inc.	OP–49–0014	Northumberland	4/6/97	03/29/05 ..... 70 FR 15774	52.2020(d)(1)(h)
Insulation Corporation of America	39–0012	Lehigh	10/17/95	03/29/05 ..... 70 FR 15774	52.2020(d)(1)(h)
Pope & Talbot, Inc.	40–0019	Luzerne	5/31/96	03/29/05 ..... 70 FR 15774	52.2020(d)(1)(h)
Universal Rundle Corporation	OP 37–059	Lawrence	5/31/95	03/29/05 ..... 70 FR 15774	52.2020(d)(1)(h)
Clark Filter	36–02040	Lancaster	2/4/00	03/29/05 ..... 70 FR 15774	52.2020(d)(1)(h)
The Pennsylvania State University—University Park.	OP–14– 0006	Centre	12/30/98	3/30/05 ..... 70 FR 16118	52.2020(d)(1)(c)
Tennessee Gas Pipeline Company—Charleston Township.	OP–59–0001	Tioga	5/31/95	3/30/05 ..... 70 FR 16118	52.2020(d)(1)(c)
Tennessee Gas Pipeline Company—Wyalusing Township.	OP–08–0002	Bradford	5/31/95	3/30/05 ..... 70 FR 16118	52.2020(d)(1)(c)
Masland Industries	21–2001	Cumberland	5/31/95	3/30/05 ..... 70 FR 16118	52.2020(d)(1)(c)
ESSROC Cement Corp.	OP–37–003	Lawrence	7/27/95 3/31/99	3/30/05 ..... 70 FR 16118	52.2020(d)(1)(c)
The Magee Carpet Company	OP–19–0001	Columbia	1/22/97	3/30/05 ..... 70 FR 16118	52.2020(d)(1)(c)
Tennessee Gas Pipeline Company—Howe Township.	OP–27–015	Forest	7/27/00	3/30/05 ..... 70 FR 16118	52.2020(d)(1)(c)
Transcontinental Gas Pipeline Corporation—Buck Township.	40–0002 ..... 40–0002A	Luzerne	5/31/95	3/30/05 ..... 70 FR 16118	52.2020(d)(1)(c)
Transcontinental Gas Pipe Line Corporation—Peach Bottom Township.	67–2012	York	5/5/95	3/30/05 ..... 70 FR 16118	52.2020(d)(1)(c)
Standard Steel Division of Freedom Forge Corp..	44–2001	Mifflin	5/31/95	3/30/05 ..... 70 FR 16118	52.2020(d)(1)(c)
Pope and Talbot, Inc.	35–0004	Lackawanna	5/31/96	3/30/05 ..... 70 FR 16124	52.2020 (d)(1)(d)
Pennsylvania Power and Light Company.	22–2011	Dauphin	6/7/95	3/30/05 ..... 70 FR 16124	52.2020(d)(1)(d)
Ellwood Group Inc.	OP 37–313	Lawrence	1/31/01	3/30/05 ..... 70 FR 16124	52.2020(d)(1)(d)
National Fuel Gas Supply Corporation	53–0009A 53–0009	Potter	8/5/96	3/30/05 ..... 70 FR 16124	52.2020(d)(1)(d)
Department of the Army	28–02002	Franklin	2/3/00	3/31/05 ..... 70 FR 16416	52.2020(d)(1)(g)
Harley–Davidson Motor Company	67–2032	York	4/9/97	3/31/05 ..... 70 FR 16416	52.2020(d)(1)(g)
GE Transportation Systems	OP 43–196	Mercer	5/16/01	3/31/05 ..... 70 FR 16416	52.2020(d)(1)(g)
Stone Container Corporation	67–2002	York	9/3/96	3/31/05 ..... 70 FR 16416	52.2020(d)(1)(g)
Stanley Storage Systems, Inc.	39–0031	Lehigh	6/12/98	3/31/05 ..... 70 FR 16416	52.2020(d)(1)(g)
York Group, Inc.	67–2014	York	7/3/95	3/31/05 ..... 70 FR 16416	52.2020(d)(1)(g)
Strick Corporation	OP–19–0002	Columbia	6/6/97	3/31/05 ..... 70 FR 16416	52.2020(d)(1)(g)
Grumman Olson, Division of Grumman Allied Industries.	OP–41–0002	Lycoming	9/25/97	3/31/05 ..... 70 FR 16416	52.2020(d)(1)(g)
Prior Coated Metals, Inc.	39–0005	Lehigh	5/26/95	3/31/05 ..... 70 FR 16416	52.2020(d)(1)(g)

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Schindler Elevator Corporation	01–2007	Adams	5/24/95	3/31/05 70 FR 16416	52.2020(d)(1)(g)
Hodge Foundry	OP–43–036	Mercer	3/31/99	3/31/05 70 FR 16420	52.2020(d)(1)(a)
Resolite, A United Dominion Co.	OP–10–266	Butler	10/15/99 2/18/00	3/31/05 70 FR 16420	52.2020(d)(1)(a)
Consolidation Coal Co.—Coal Preparation Plant.	30–000–063	Greene	5/17/99	3/31/05 70 FR 16420	52.2020(d)(1)(a)
Urick Foundry	OP–25–053	Erie	10/24/96	3/31/05 70 FR 16420	52.2020(d)(1)(a)
Keystone Sanitary Landfill, Inc.	35–0014	Lackawanna	4/19/99	3/31/05 70 FR 16420	52.2020(d)(1)(a)
Grinnell Corporation	36–2019	Lancaster	6/30/95	3/31/05 70 FR 16420	52.2020(d)(1)(a)
Buck Company Inc.	36–2035	Lancaster	8/1/95	3/31/05 70 FR 16420	52.2020(d)(1)(a)
Owens-Brockway Glass Container, Inc..	OP 16–010	Clarion	3/27/95 5/31/95	3/31/05 70 FR 16423	52.2020(d)(1)(f)
Alcoa Extrusion, Inc.	54–0022	Schuylkill	4/19/99	3/31/05 70 FR 16423	52.2020(d)(1)(f)
Pennsylvania Electric Company	32–000–059	Indiana	12/29/94	3/31/05 70 FR 16423	52.2020(d)(1)(f)
National Gypsum Company	OP–60–0003	Union	1/17/96	3/31/05 70 FR 16423	52.2020(d)(1)(f)
Stoney Creek Technologies, LLC	OP–23–0002	Delaware	7/24/03	3/31/05 70 FR 16423	52.2020(d)(1)(f)
Northeastern Power Company	54–0008	Schuylkill	5/26/95	3/31/05 70 FR 16423	52.2020(d)(1)(f)
Texas Eastern Transmission Corporation.	22–2010	Dauphin	1/31/97	3/31/05 70 FR 16423	52.2020(d)(1)(f)
The Miller Group	54–0024	Schuykill	2/1/99	3/31/05 70 FR 16423	52.2020(d)(1)(f)
CNG Transmission Corporation	32–000–129	Indiana	6/22/95	3/31/05 70 FR 16423	52.2020(d)(1)(f)
I.H.F.P., Inc.	OP–49–0010A	Northumberland	1/7/98	3/31/05 70 FR 16423	52.2020(d)(1)(f)
National Forge Company	OP 62–032	Warren	5/31/95	3/31/05 70 FR 16423	52.2020(d)(1)(f)
United Refining Company	OP 62–017	Warren	5/31/95 11/14/96	3/31/05 70 FR 16423	52.2020(d)(1)(f)
Petrowax Refining	OP 42–110	McKean	3/4/96 5/31/96	3/31/05 70 FR 16423	52.2020(d)(1)(f)
Westvaco Corporation	07–2008	Blair	9/29/95	3/31/05 70 FR 16423	52.2020(d)(1)(f)
Naval Surface Warfare Center, Caderock Division Ship Systems Engineering Station.	PA–04108	Philadelphia	10/18/04	4/29/05 70 FR 22257	52.2020(d)(1)(j)
R.H. Sheppard Co., Inc.	67–2016	York	8/4/95	8/24/05 70 FR 49496	52.2020(d)(1)(i)
Wheatland Tube Company	OP 43–182	Mercer	7/26/95	8/24/05 70 FR 49496	52.2020(d)(1)(i)
Transcontinental Gas Pipeline Corporation.	OP–53–0006	Potter	10/13/95	8/24/05 70 FR 49496	52.2020(d)(1)(i)
Transcontinental Gas Pipeline Corporation.	OP–19–0004	Columbia	5/30/95	8/24/05 70 FR 49496	52.2020(d)(1)(i)
Transcontinental Gas Pipeline Corporation.	PA–41–0005A	Lycoming	8/9/95	8/24/05 70 FR 49496	52.2020(d)(1)(i)
Molded Fiber Glass	OP 25–035	Erie	7/30/99	11/1/05 70 FR 65842	52.2020(d)(1)(k)
Erie Forge and Steel, Inc.	OP 25–924	Erie	2/10/00	11/1/05 70 FR 65842	52.2020(d)(1)(k)
OSRAM SYLVANIA Products, Inc.	OP 59–0007	Tioga	1/22/98	11/1/05 70 FR 65842	52.2020(d)(1)(k)
Owens-Brockway Glass Container	OP 33–002	Jefferson	11/23/98	11/1/05 70 FR 65842	52.2020(d)(1)(k)
Texas Eastern Transmission Corporation.	32–000–230	Indiana	9/25/95	11/1/05 70 FR 65842	52.2020(d)(1)(k)
SKF, USA, Incorporated	67–02010A	York	7/19/00	11/1/05 70 FR 65842	52.2020(d)(1)(k)

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Johnstown America Corporation	11–000–288	Cambria	1/13/99	11/1/05 70 FR 65842	52.2020(d)(1)(k)
SGL Carbon Corporation	OP 24–131	Elk	5/12/95 5/31/95	11/1/05 70 FR 65845	52.2020(d)(1)(e)
Salem Tube, Inc.	OP 43–142	Mercer	2/16/99	11/1/05 70 FR 65845	52.2020(d)(1)(e)
Dominion Trans, Inc.	18–00006	Clinton	6/15/99 9/29/03	11/1/05 70 FR 65845	52.2020(d)(1)(e)
Waste Management Disposal Services of Pennsylvania (Pottstown Landfill).	OP–46–0033	Berks; Montgomery	4/20/99 1/27/04	11/2/05 70 FR 66261	52.2020(d)(1)(b)
Waste Management Disposal Services of PA, Inc..	67–02047	York	4/20/99	11/2/05 70 FR 66261	52.2020(d)(1)(b)
Armstrong World Industries, Inc.	36–2001	Lancaster	7/3/99	11/2/05 70 FR 66261	52.2020(d)(1)(b)
Cogentrix of Pennsylvania Inc.	OP–33–137	Jefferson	1/27/98	3/8/06 71 FR 11514	52.2020(d)(1)(l)
	PA–33–302–014		11/15/90		
	OP–33–302–014		5/31/93		
	PA–33–399–004		10/31/98		
	OP–33–399–004		5/31/93		
Scrubgrass Generating Company, LP	OP–61–0181	Venango	4/30/98	3/8/06 71 FR 11514	52.2020(d)(1)(l)
Wheelabrator Frackville Energy Co.	OP–54–005	Schuylkill	9/18/98	3/8/06 71 FR 11514	52.2020(d)(1)(l)
Indiana University of Pennsylvania—S.W. Jack Cogeneration Facility.	OP–32–000–200	Indiana	9/24/98	3/8/06 71 FR 11514	52.2020(d)(1)(l)
Fleetwood Motor Homes	OP–49–0011	Northumberland	10/30/98	3/8/06 71 FR 11514	52.2020(d)(1)(l)
Piney Creek, LP	OP–16–0127	Clarion	12/18/98	3/8/06 71 FR 11514	52.2020(d)(1)(l)
Statoil Energy Power Paxton, LP	OP–22–02015	Dauphin	6/30/99	3/8/06 71 FR 11514	52.2020(d)(1)(l)
Harrisburg Steamworks	OP–22–02005	Dauphin	3/23/99	3/8/06 71 FR 11514	52.2020(d)(1)(l)
Cove Shoe Company	OP–07–02028	Blair	4/7/99	3/8/06 71 FR 11514	52.2020(d)(1)(l)
PP&L—Fichbach C.T. Facility	OP–54–0011	Schuylkill	6/1/99	3/8/06 71 FR 11514	52.2020(d)(1)(l)
PP&L—Allentown C.T. Facility	OP–39–0009	Lehigh	6/1/99	3/8/06 71 FR 11514	52.2020(d)(1)(l)
PP&L—Harwood C.T. Facility	OP–40–0016	Luzerne	6/1/99	3/8/06 71 FR 11514	52.2020(d)(1)(l)
PP&L—Jenkins C.T. Facility	OP–40–0017	Luzerne	6/1/99	3/8/06 71 FR 11514	52.2020(d)(1)(l)
The International Metals Reclamation Co..	OP 37–243	Lawrence	8/9/00	3/31/06 71 FR 16235	52.2020(d)(1)(m)
Petrowax, PA, Inc.	PA 61–020	Venango	1/2/96	3/31/06 71 FR 16235	52.2020(d)(1)(m)
Pennsylvania Electric Company	OP 32–000–059	Indiana	12/29/94	04/28/06 71 FR 25070	52.2020(d)(1)(n)
The Harrisburg Authority	OP 22–2007	Dauphin	1/02/95	04/28/06 71 FR 25070	52.2020(d)(1)(n)
Texas Eastern Transmission Corp.	OP 50–02001	Perry	4/12/99	04/28/06 71 FR 25070	52.2020(d)(1)(n)
Graybec Lime, Inc.	OP14–0004	Centre	4/16/99	04/28/06 71 FR 25070	52.2020(d)(1)(n)
Techneglas, Inc.	OP 40–0009A	Luzerne	1/29/99	04/28/06 71 FR 25070	52.2020(d)(1)(n)
DLM Foods (formerly Heinz USA)	CO 211	Allegheny	3/8/96	05/11/06 71 FR 27394	52.2020(d)(1)(o)
NRG Energy Center (formerly Pittsburgh Thermal Limited Partnership).	CO 220	Allegheny	3/4/96	05/11/06 71 FR 27394	52.2020(d)(1)(o)
Tasty Baking Oxford, Inc.	OP 15–0104	Chester	5/12/04	05/11/06 71 FR 27394	52.2020(d)(1)(o)
Silberline Manufacturing Company	OP 13–0014	Carbon	4/19/99	05/11/06 71 FR 27394	52.2020(d)(1)(o)
Adhesives Research, Inc.	OP 67–2007	York	7/1/95	05/11/06 71 FR 27394	52.2020(d)(1)(o)

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Mohawk Flush Doors, Inc.	OP 49–0001	Northumberland	1/20/99	05/11/06 71 FR 27394	52.2020(d)(1)(o)
Bigbee Steel and Tank Company	36–2024	Lancaster	7/7/95	6/13/06 71 FR 34011	52.2020(d)(1)(p)
Conoco Phillips Company	OP–23–0003	Delaware	4/29/04	6/13/06 71 FR 34011	52.2020(d)(1)(p)
The Hershey Company	22–02004B	Dauphin	12/23/05	6/13/06 71 FR 34011	52.2020(d)(1)(p)
LORD Corporation, Cambridge Springs.	OP–20–123	Crawford	7/27/95	6/13/06 71 FR 34011	52.2020(d)(1)(p)
Pittsburgh Corning Corporation	PA–42–009	McKean	5/31/95	6/13/06 71 FR 34011	52.2020(d)(1)(p)
Small Tube Manufacturing, LLC	07–02010	Blair	2/27/06	6/13/06 71 FR 34011	52.2020(d)(1)(p)
Texas Eastern Transmission Corporation, Holbrook Compressor Station.	30–000–077	Greene	1/3/97	6/13/06 71 FR 34011	52.2020(d)(1)(p)
Willamette Industries, Johnsonburgh Mill.	OP–24–009	Elk	5/23/95	6/13/06 71 FR 34011	52.2020(d)(1)(p)
American Refining Group, Inc.	OP–42–004	McKean	11/23/98	6/14/06 71 FR 34259	52.2020(d)(1)(q)
Bellefonte Lime Company	OP–14–0002	Centre	10/19/98	6/14/06 71 FR 34259	52.2020(d)(1)(q)
Butter Krust Baking Company, Inc.	OP–49–0006	Northumberland	11/5/96	6/14/06 71 FR 34259	52.2020(d)(1)(q)
Carnegie Natural Gas Company	30–000–106	Greene	9/22/95	6/14/06 71 FR 34259	52.2020(d)(1)(q)
Caterpillar, Inc.	67–2017	York	8/1/95	6/14/06 71 FR 34259	52.2020(d)(1)(q)
Gencorp, Inc.	54–0009	Schuykill	5/31/96	6/14/06 71 FR 34259	52.2020(d)(1)(q)
Harris Semiconductor	OP–40–0001A	Luzerne	4/16/99	6/14/06 71 FR 34259	52.2020(d)(1)(q)
Merisol Antioxidants LLC	OP–61–00011	Venango	4/18/05	6/14/06 71 FR 34259	52.2020(d)(1)(q)
Norcon Power Partners, L.P.	OP–25–923	Erie	9/21/95	6/14/06 71 FR 34259	52.2020(d)(1)(q)
Triangle Pacific Corp.	34–2001	Juniata	5/31/95	6/14/06 71 FR 34259	52.2020(d)(1)(q)
Viking Energy of Northumberland Limited Partnership.	OP–49–0004	Northumberland	5/30/95	6/14/06 71 FR 34259	52.2020(d)(1)(q)
White Cap, Inc.	40–0004	Luzerne	7/20/95	6/14/06 71 FR 34259	52.2020(d)(1)(q)
Carlisle Tire & Rubber Company	21–2003	Cumberland	3/10/95	7/11/06 71 FR 38993	52.2020(d)(1)(t)
The Carbide/Graphite Group, Inc.	OP 24–012	Elk	5/12/95	7/11/06 71 FR 38993	52.2020(d)(1)(t)
Celotex Corporation	OP–49–0013	Northumberland	6/18/99	7/11/06 71 FR 38993	52.2020(d)(1)(t)
American Railcar Industries, Inc. Shippers Car Line Division.	OP–49–0012	Northumberland	11/29/95	7/11/06 71 FR 38993	52.2020(d)(1)(t)
ACF Industries, Inc.	OP–49–0009	Northumberland	12/12/96	7/11/06 71 FR 38993	52.2020(d)(1)(t)
New Holland North America, Inc.	36–2028	Lancaster	10/17/95	7/11/06 71 FR 38993	52.2020(d)(1)(t)
Allsteel, Inc.	40–001–5	Luzerne	5/26/95	7/11/06 71 FR 38993	52.2020(d)(1)(t)
Ball-Foster Glass Container Co.	OP 42–028	McKean	7/7/95 3/31/99	7/11/06 71 FR 38993	52.2020(d)(1)(t)
Pennsylvania Power & Light Company—West Shore.	OP–21–2009	Cumberland	6/7/95	7/11/06 71 FR 38995	52.2020(d)(1)(r)
Foster Wheeler Mt. Carmel, Inc.	OP–49–0002	Northumberland	6/30/95	7/11/06 71 FR 38995	52.2020(d)(1)(r)
Metropolitan Edison Company—Portland.	OP–48–0006	Northampton	12/14/94	7/11/06 71 FR 38995	52.2020(d)(1)(r)
Pennsylvania Power & Light Company	OP–41–0004	Lycoming	6/13/95	7/11/06 71 FR 38995	52.2020(d)(1)(r)
Pennsylvania Power & Light Company	OP–18–0006	Clinton	6/13/95	7/11/06 71 FR 38995	52.2020(d)(1)(r)

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Texas Eastern Transmission Corporation.	OP–34–2002	Juniata	1/31/97	7/11/06 71 FR 38995	52.2020(d)(1)(r)
Pennsylvania Power & Light Company	OP 48–0011	Northampton	12/19/94	7/11/06 71 FR 38995	52.2020(d)(1)(r)
Johnstown Corporation	OP–11–000–034	Cambria	6/23/95	7/11/06 71 FR 38995	52.2020(d)(1)(r)
Koppers Industries, Inc.	OP41–0008	Lycoming	3/30/99	7/13/06 71 FR 39572	52.2020(d)(1)(s)

(2) EPA-APPROVED VOLATILE ORGANIC COMPOUNDS (VOC) EMISSIONS TRADING PROGRAMS

Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
National Can Company Fres-co Systems, USA Inc. Paramount Packaging Corp..	85–524 85–525	Bucks	3/1/85	4/21/88 53 FR 13121	(c)(68); transfer of offsets from NCCo to Fres-co and Paramount.

(3) EPA-APPROVED SOURCE SPECIFIC SULFUR DIOXIDE (SO_2) REQUIREMENTS

Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
USX Corporation, Clairton Coke Works	200	Allegheny	11/17/94	8/18/95 60 FR 43012	(c)(99)
Reliant Energy Mid-Atlantic Power Holdings LLC, Warren Generating Station.	203–62–00012	Warren	11/21/01	1/17/03 68 FR 2459	(c)(190)(i)(C)(1)
United Refining Company	SO2–62–017E	Warren	6/11/01	1/17/03 68 FR 2459	(c)(190)(i)(C)(2)
Trigen-Philadelphia Energy Corporation	SO2–95–002	Philadelphia	7/27/00	9/9/02 67 FR 57155	(c)(193)(i)(B)(*1*)
Grays Ferry Cogeneration Partnership	SO2–95–002A	Philadelphia	7/27/00	9/9/02 67 FR 57155	(c)(193)(i)(B)(*2*)
PECO Energy Company, Schuylkill Generating Station.	SO2–95–006	Philadelphia	7/27/00	9/9/02 67 FR 57155	(c)(193)(i)(B)(*3*)
Sunoco, Inc. (R&M) Philadelphia Refinery	SO2–95–039	Philadelphia	7/27/00	9/9/02 67 FR 57155	(c)(193)(i)(B)(*4*)

(4) EPA-APPROVED SOURCE SPECIFIC LEAD (PB) REQUIREMENTS

Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
East Penn Manufacturing Corp.	[None]	Berks	5/29/84	7/27/84 49 FR 30179	(c)(62)
General Battery Corporation	[None]	Berks	5/29/84	7/27/84 49 FR 30179.	(c)(62)
Tonolli Corporation (Closed)	[None]	Carbon	5/29/84	7/27/84 49 FR 30179	(c)(62)
Franklin Smelting and Refining Corporation	[None]	Philadelphia	9/21/94	12/20/96 61 FR 67275	(c)(112)
MDC Industries, Inc.	[None]	Philadelphia	9/21/94	12/20/96 61 FR 67275	(c)(112)
Anzon, Inc.	[None]	Philadelphia	9/21/94	12/20/96 61 FR 67275	(c)(112)

(e) *EPA-approved nonregulatory and quasi-regulatory material*

(1) EPA-APPROVED NONREGULATORY AND QUASI-REGULATORY MATERIAL

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
Sulfur Dioxide Attainment Demonstration	Conewego, Pleasant, and Glade Townships; City of Warren (Warren Co.).	8/20/01	1/17/03 ..... 68 FR 2454	52.2033(b)
Sulfur Dioxide Attainment Demonstration	Allegheny County-sulfur dioxide area defined in 40 CFR 81.339.	8/15/03	7/21/04 ..... 69 FR 43522	52.2033(c)
Photochemical Assessment Monitoring Stations (PAMS) Program ..	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	9/23/94	9/11/95 ..... 60 FR 47081	52.2035
1990 Base Year Emission Inventory—Carbon Monoxide	Philadelphia County.	9/8/95 10/30/95	1/30/96 ..... 61 FR 2982	52.2036(a)
1990 Base Year Emission Inventory—VOC	Pittsburgh-Beaver Valley Ozone Nonattainment Area.	3/22/96 2/18/97 7/22/98	4/3/01 ..... 66 FR 17634	52.2036(d)
1990 Base Year Emission Inventory—VOC, CO, NO_X	Reading Area (Berks County).	1/28/97	5/7/97 ..... 62 FR 24846	52.2036(e)
1990 Base Year Emission Inventory—VOC	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	9/12/96	6/9/97 ..... 62 FR 31343	52.2036(i)
1990 Base Year Emission Inventory—NO_X	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	7/31/98	6/17/99 ..... 64 FR 32422	52.2036(l)
1990 Base Year Emission Inventory—NO_X	Pittsburgh-Beaver Valley Ozone Nonattainment Area.	3/22/96 2/18/97	10/19/01 ..... 66 FR 53094	52.2036(m)
1990 Base Year Emission Inventory—Carbon Monoxide	City of Pittsburgh—CBD & Oakland.	11/12/92 8/17/01	11/12/02 ..... 67 FR 68521	52.2036(n)
Post 1996 Rate of Progress Plan	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	7/31/98 2/25/00	10/26/01 ..... 66 FR 54143	52.2037(i)
One-Hour Ozone Attainment Demonstration	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	4/30/98 8/21/98 2/25/00 7/19/01	10/26/01 ..... 66 FR 54143	52.2037(j)
Mobile Budgets for Post-1996 and 2005 attainment plans	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	2/25/00	10/26/01 ..... 66 FR 54143	52.2037(k)
	.....	2/23/04	5/21/04 ..... 69 FR 29238	52.2037(k)
15% Rate of Progress Plan	Pittsburgh-Beaver Valley Ozone Nonattainment Area.	3/22/96 2/18/97 7/22/98	4/3/01 ..... 66 FR 17634	52.2038(a)

(1) EPA-APPROVED NONREGULATORY AND QUASI-REGULATORY MATERIAL—Continued

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
15% Rate of Progress Plan	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	9/12/96 4/10/97 6/5/98	8/24/01 ..... 66 FR 44547	52.2038(b)
Control of Asphalt Paving Material (Emission offset)	Defined 16-county area in Western PA and Southwestern PA.	5/20/77 7/15/77	10/6/77 ..... 42 FR 54417	52.1120(c)(15) [1] 52.2054
Particulate matter SIP	Allegheny County-Clairton PM_{10} nonattainment area.	1/6/94	9/8/98 ..... 63 FR 47434	52.2059
Small Business Assistance Program	Statewide	2/1/93	1/6/95 ..... 60 FR 1738	52.2060
Source Testing Manual	Allegheny County.	9/10/79	10/21/81 ..... 46 FR 51607	52.2063(c)(4)
Ozone Nonattainment Plan	Statewide	4/24/79	5/20/80 ..... 46 FR 33607	52.2063(c)(22)
Non-regulatory measures	Southwest Pa. AQCR.	9/17/79	5/20/80 ..... 46 FR 33607	52.2063(c)(30)
Air Quality Monitoring Network	Statewide (except Allegheny County).	1/25/80	8/5/81 ..... 46 FR 39822	52.2063(c)(34)
Attainment plan for sulfur dioxide	Armstrong County.	4/9/81	8/18/81 ..... 46 FR 43423	52.2063(c)(36)
Air Quality Monitoring Network	Allegheny County.	12/24/80	9/15/81 ..... 46 FR 45762	52.2063(c)(38)
Expanded Ridesharing Program	Metro. Philadelphia AQCR.	12/9/81	10/7/82 ..... 47 FR 44259	52.2063(c)(46)
Lead (Pb) SIP	Allegheny County.	9/6/83	2/6/84 ..... 49 FR 4379	52.2063(c)(59)
Lead (Pb) SIP	Philadelphia	8/29/83 5/15/84	8/1/84 ..... 49 FR 30696	52.2063(c)(61)
Lead (Pb) SIP	Statewide (except Philadelphia and Allegheny Counties).	9/30/82 6/8/84	7/27/84 ..... 49 FR 30179	52.2063(c)(62)
Ozone and Carbon Monoxide Plan	Metro. Philadelphia AQCR.	6/30/82 10/24/83	2/26/85 ..... 45 FR 7772	52.2063(c)(63)
Ozone and Carbon Monoxide Plan	Southwestern Pa. ACQR.	6/30/82 10/24/83	2/26/85 ..... 45 FR 7772	52.2063(c)(63)
Ozone and Carbon Monoxide Plan	Allentown-Bethlehem-Easton Air Basin.	6/30/82 10/24/83	2/26/85 ..... 45 FR 7772	52.2063(c)(63)
Carbon Monoxide Maintenance Plan	Philadelphia County.	9/8/95 10/30/95	1/30/96 ..... 61 FR 2982	52.2063(c)(105)
		9/3/04	04/04/05 ..... 70 FR 16958	Revised Carbon Monoxide Maintenance Plan Base Year Emissions Inventory using MOBILE6
Source Testing Manual	Statewide	11/26/94	7/30/96 ..... 61 FR 39497	52.2063(c)(110) (i)(D); cross-referenced in Section 139.5
Continuous Source	Statewide Testing Manual.	11/26/94	7/30/96 ..... 61 FR 39497	52.2063(c)(110) (i)(D); cross-referenced in Section 139.5
Ozone Maintenance Plan	Reading Area (Berks County).	1/28/97	5/7/97 ..... 62 FR 24846	52.2063(c)(123)
		12/09/2003	2/26/04 ..... 68 FR 8824	52.2063(c)(222)

(1) EPA-APPROVED NONREGULATORY AND QUASI-REGULATORY MATERIAL—Continued

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
Ozone Maintenance Plan	Pittsburgh-Beaver Valley Ozone Nonattainment Area.	5/21/01	10/19/01 ..... 66 FR 53094	52.2063(c)(188)
		4/11/03	8/5/03 ..... 68 FR 46099	52.2063(c)(210)
		4/22/04	12/10/04 ..... 69 FR 71212	52.2063(c)(226)
Carbon Monoxide Maintenance Plan	City of Pittsburgh—CBD & Oakland.	8/17/01	11/12/02 ..... 67 FR 68521	52.2063(c)(189)
PM_{10} Maintenance Plan	Allegheny County-Clairton PM_{10} nonattainment area.	9/14/02	9/11/03 ..... 68 FR 53515	52.2063(c)(215)
Sulfur Dioxide Maintenance Plan	Allegheny County-sulfur dioxide area defined in 40 CFR 81.339.	8/15/03	7/21/04 ..... 69 FR 43522	52.2063(c)(216) (i)(B)
Sulfur Dioxide Maintenance Plan	Conewego, Pleasant, and Glade Townships; City of Warren (Warren Co.).	5/7/04	7/1/04 ..... 69 FR 39860	52.2063(c)(224)

[1] Because of an editing error, this section was placed in the wrong subpart of 40 CFR part 52 (subpart W instead of subpart NN), and subsequently removed. However, EPA considers this provision to be a current Federally-enforceable portion of the SIP. The ''removed'' paragraph reads as follows:

''Pennsylvania Department of Transportation change to section 7.5.9.8 of the Paving Maintenance Manual creditable as emission offsets submitted by the Secretary of the Pennsylvania Department of Environmental Resources on July 15, 1997, as addenda to the Pennsylvania Air Quality Implementation Plan.''

(2) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NOX) NOT INCORPORATED BY REFERENCE

Name of source	Permit No.	County	State submittal date	EPA approval date	Additional explanation/ § 52.2063 citation
USX Corp./ US Steel Group—Fairless Hills.	09–0006	Bucks	8/11/95 11/15/95	04/09/96 61 FR 15709	52.2036(b); 52.2037(c); source shutdown date is 8/1/91.
General Glass—Jeannette	65–0675	Westmoreland	7/5/95	05/16/96 61 FR 24727	52.2036(c); 52.2037(d).
Sharon Steel Company	43–0017	Mercer	12/8/95	12/20/96 61 FR 67275	52.2036(f); 52.2037(e).
R. R. Donnelley and Sons Co.—Lancaster East Plant.	36–2027	Lancaster	9/20/95	07/21/97 62 FR 33891	52.2036(j).
Rockwell Heavy Vehicle, Inc.—New Castle Forge Plant.	37–065	Lawrence	4/8/98	04/16/99 64 FR 18818	52.2036(k); source shutdown date is 4/1/93.
Pennsylvania Electric Co.—(PENELEC)—Williamsburg Station.	07–2006	Blair	8/1/95	12/20/96 61 FR 67275	52.2037(f); 52.2063(c)(113)(i)(A) & (ii)(A).
Caparo Steel Company	43–0285	Mercer	12/8/95	12/20/96 61 FR 67275	52.2037(g).
Mercersburg Tanning Co.	28–2008	Franklin	4/26/95	03/12/97 62 FR 11079	52.2037(h); 52.2063(c)(114)(i)(A)(3) & (ii)(A).
Duquesne Light Co.—Brunot Island Station.	214	Allegheny	3/5/01	10/18/01 66 FR 52867	52.2063(c)(161)(ii)(A).
Duquesne Light Co.—Phillips Station ..	212	Allegheny	4/15/99	10/18/01 66 FR 52867	52.2063(c)(161)(ii)(B).

[FR Doc. E6–22284 Filed 12–29–06; 8:45 am]

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Western Pacific fisheries—

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Small power production and cogeneration facilities; published 11-1-06

Correction; published 12-18-06

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**

In the **List of Public Laws** printed in the *Federal Register* on December 29, 2006, S. 2735, Public Law 109-460, was printed incorrectly. It should read as follows:

S. 2735/P.L. 109–460

To amend the National Dam Safety Program Act to reauthorize the national dam safety program, and for other purposes. (Dec. 22, 2006; 120 Stat. 3401)

Last List December 29, 2006

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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24 Parts:			
0–199	(869–060–00074–7)	60.00	Apr. 1, 2006
200–499	(869–060–00075–5)	50.00	Apr. 1, 2006
500–699	(869–060–00076–3)	30.00	Apr. 1, 2006
700–1699	(869–060–00077–1)	61.00	Apr. 1, 2006
1700–End	(869–060–00078–0)	30.00	Apr. 1, 2006
25	(869–060–00079–8)	64.00	Apr. 1, 2006
26 Parts:			
§§ 1.0–1–1.60	(869–060–00080–1)	49.00	Apr. 1, 2006
§§ 1.61–1.169	(869–060–00081–0)	63.00	Apr. 1, 2006
§§ 1.170–1.300	(869–060–00082–8)	60.00	Apr. 1, 2006
§§ 1.301–1.400	(869–060–00083–6)	47.00	Apr. 1, 2006
§§ 1.401–1.440	(869–060–00084–4)	56.00	Apr. 1, 2006
§§ 1.441–1.500	(869–060–00085–2)	58.00	Apr. 1, 2006
§§ 1.501–1.640	(869–060–00086–1)	49.00	Apr. 1, 2006
§§ 1.641–1.850	(869–060–00087–9)	61.00	Apr. 1, 2006
§§ 1.851–1.907	(869–060–00088–7)	61.00	Apr. 1, 2006
§§ 1.908–1.1000	(869–060–00089–5)	60.00	Apr. 1, 2006
§§ 1.1001–1.1400	(869–060–00090–9)	61.00	Apr. 1, 2006
§§ 1.1401–1.1550	(869–060–00091–2)	58.00	Apr. 1, 2006
§§ 1.1551–End	(869–060–00092–5)	50.00	Apr. 1, 2006
2–29	(869–060–00093–3)	60.00	Apr. 1, 2006
30–39	(869–060–00094–1)	41.00	Apr. 1, 2006
40–49	(869–060–00095–0)	28.00	Apr. 1, 2006
50–299	(869–060–00096–8)	42.00	Apr. 1, 2006

Title	Stock Number	Price	Revision Date
300–499	(869–060–00097–6)	61.00	Apr. 1, 2006
500–599	(869–060–00098–4)	12.00	[5] Apr. 1, 2006
600–End	(869–060–00099–2)	17.00	Apr. 1, 2006
27 Parts:			
1–399	(869–060–00100–0)	64.00	Apr. 1, 2006
400–End	(869–060–00101–8)	18.00	Apr. 1, 2006
28 Parts:			
0–42	(869–060–00102–6)	61.00	July 1, 2006
43–End	(869–060–00103–4)	60.00	July 1, 2006
29 Parts:			
0–99	(869–060–00104–2)	50.00	July 1, 2006
100–499	(869–060–00105–1)	23.00	July 1, 2006
500–899	(869–060–00106–9)	61.00	July 1, 2006
900–1899	(869–060–00107–7)	36.00	July 1, 2006
1900–1910 (§§ 1900 to 1910.999)	(869–060–00108–5)	61.00	July 1, 2006
1910 (§§ 1910.1000 to end)	(869–060–00109–3)	46.00	July 1, 2006
1911–1925	(869–060–00110–7)	30.00	July 1, 2006
1926	(869–060–00111–5)	50.00	July 1, 2006
1927–End	(869–060–00112–3)	62.00	July 1, 2006
30 Parts:			
1–199	(869–060–00113–1)	57.00	July 1, 2006
200–699	(869–060–00114–0)	50.00	July 1, 2006
700–End	(869–060–00115–8)	58.00	July 1, 2006
31 Parts:			
0–199	(869–060–00116–6)	41.00	July 1, 2006
200–499	(869–060–00117–4)	46.00	July 1, 2006
500–End	(869–060–00118–2)	62.00	July 1, 2006
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–060–00119–1)	61.00	July 1, 2006
191–399	(869–060–00120–4)	63.00	July 1, 2006
400–629	(869–060–00121–2)	50.00	July 1, 2006
630–699	(869–060–00122–1)	37.00	July 1, 2006
700–799	(869–060–00123–9)	46.00	July 1, 2006
800–End	(869–060–00124–7)	47.00	July 1, 2006
33 Parts:			
1–124	(869–060–00125–5)	57.00	July 1, 2006
125–199	(869–060–00126–3)	61.00	July 1, 2006
200–End	(869–060–00127–1)	57.00	July 1, 2006
34 Parts:			
1–299	(869–060–00128–0)	50.00	July 1, 2006
300–399	(869–060–00129–8)	40.00	July 1, 2006
400–End & 35	(869–060–00130–1)	61.00	[8] July 1, 2006
36 Parts:			
1–199	(869–060–00131–0)	37.00	July 1, 2006
200–299	(869–060–00132–8)	37.00	July 1, 2006
300–End	(869–060–00133–6)	61.00	July 1, 2006
37	(869–060–00134–4)	58.00	July 1, 2006
38 Parts:			
0–17	(869–060–00135–2)	60.00	July 1, 2006
18–End	(869–060–00136–1)	62.00	July 1, 2006
39	(869–060–00137–9)	42.00	July 1, 2006
40 Parts:			
1–49	(869–060–00138–7)	60.00	July 1, 2006
50–51	(869–060–00139–5)	45.00	July 1, 2006
52 (52.01–52.1018)	(869–060–00140–9)	60.00	July 1, 2006
52 (52.1019–End)	(869–060–00141–7)	61.00	July 1, 2006
53–59	(869–060–00142–5)	31.00	July 1, 2006
60 (60.1–End)	(869–060–00143–3)	58.00	July 1, 2006
60 (Apps)	(869–060–00144–7)	57.00	July 1, 2006
61–62	(869–060–00145–0)	45.00	July 1, 2006
63 (63.1–63.599)	(869–060–00146–8)	58.00	July 1, 2006
63 (63.600–63.1199)	(869–060–00147–6)	50.00	July 1, 2006
63 (63.1200–63.1439)	(869–060–00148–4)	50.00	July 1, 2006
63 (63.1440–63.6175)	(869–060–00149–2)	32.00	July 1, 2006
63 (63.6580–63.8830)	(869–060–00150–6)	32.00	July 1, 2006
63 (63.8980–End)	(869–060–00151–4)	35.00	July 1, 2006
64–71	(869–060–00152–2)	29.00	July 1, 2006
72–80	(869–060–00153–1)	62.00	July 1, 2006
81–85	(869–060–00154–9)	60.00	July 1, 2006
86 (86.1–86.599–99)	(869–060–00155–7)	58.00	July 1, 2006
86 (86.600–1–End)	(869–060–00156–5)	50.00	July 1, 2006
87–99	(869–060–00157–3)	60.00	July 1, 2006
100–135	(869–060–00158–1)	45.00	July 1, 2006
136–149	(869–060–00159–0)	61.00	July 1, 2006
150–189	(869–060–00160–3)	50.00	July 1, 2006
190–259	(869–060–00161–1)	39.00	July 1, 2006
260–265	(869–060–00162–0)	50.00	July 1, 2006
266–299	(869–060–00163–8)	50.00	July 1, 2006
300–399	(869–060–00164–6)	42.00	July 1, 2006
400–424	(869–060–00165–4)	56.00	July 1, 2006
425–699	(869–060–00166–2)	61.00	July 1, 2006
700–789	(869–060–00167–1)	61.00	July 1, 2006
790–End	(869–060–00168–9)	61.00	July 1, 2006
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–060–00169–7)	24.00	July 1, 2006
101	(869–060–00170–1)	21.00	[8] July 1, 2006
102–200	(869–060–00171–9)	56.00	July 1, 2006
201–End	(869–060–00172–7)	24.00	July 1, 2006
42 Parts:			
1–399	(869–060–00173–5)	61.00	Oct. 1, 2006
400–413	(869–060–00174–3)	32.00	Oct. 1, 2006
414–429	(869–060–00175–1)	32.00	Oct. 1, 2006
430–End	(869–060–00176–0)	64.00	Oct. 1, 2006
43 Parts:			
*1–999	(869–060–00177–8)	56.00	Oct. 1, 2006
1000–end	(869–060–00178–6)	62.00	Oct. 1, 2006
44	(869–060–00179–4)	50.00	Oct. 1, 2006
45 Parts:			
1–199	(869–060–00180–8)	60.00	Oct. 1, 2006
200–499	(869–060–00181–6)	34.00	Oct. 1, 2006
500–1199	(869–060–00182–4)	56.00	Oct. 1, 2006
1200–End	(869–060–00183–2)	61.00	Oct. 1, 2006
46 Parts:			
1–40	(869–060–00184–1)	46.00	Oct. 1, 2006
41–69	(869–060–00185–9)	39.00	Oct. 1, 2006
70–89	(869–060–00186–7)	14.00	Oct. 1, 2006
90–139	(869–060–00187–5)	44.00	Oct. 1, 2006
140–155	(869–060–00188–3)	25.00	Oct. 1, 2006
156–165	(869–060–00189–1)	34.00	Oct. 1, 2006
166–199	(869–060–00190–5)	46.00	Oct. 1, 2006
200–499	(869–060–00191–3)	40.00	Oct. 1, 2006
500–End	(869–060–00192–1)	25.00	Oct. 1, 2006
47 Parts:			
*0–19	(869–060–00193–0)	61.00	Oct. 1, 2006
20–39	(869–060–00194–8)	46.00	Oct. 1, 2006
40–69	(869–060–00195–6)	40.00	Oct. 1, 2006
70–79	(869–056–00195–9)	61.00	Oct. 1, 2005
80–End	(869–060–00197–2)	61.00	Oct. 1, 2006
48 Chapters:			
1 (Parts 1–51)	(869–056–00197–5)	63.00	Oct. 1, 2005
1 (Parts 52–99)	(869–056–00198–3)	49.00	Oct. 1, 2005
2 (Parts 201–299)	(869–060–00200–6)	50.00	Oct. 1, 2006
3–6	(869–060–00201–4)	34.00	Oct. 1, 2006
7–14	(869–060–00202–2)	56.00	Oct. 1, 2006

Title	Stock Number	Price	Revision Date
15–28	(869–056–00202–5)	47.00	Oct. 1, 2005
29–End	(869–060–00204–9)	47.00	Oct. 1, 2006
49 Parts:			
1–99	(869–060–00205–7)	60.00	Oct. 1, 2006
100–185	(869–056–00205–0)	63.00	Oct. 1, 2005
186–199	(869–060–00207–3)	23.00	Oct. 1, 2006
200–299	(869–060–00208–1)	32.00	Oct. 1, 2006
300–399	(869–060–00209–0)	32.00	Oct. 1, 2006
*400–599	(869–060–00210–3)	64.00	Oct. 1, 2006
600–999	(869–056–00210–6)	19.00	Oct. 1, 2005
1000–1199	(869–060–00212–0)	28.00	Oct. 1, 2006
1200–End	(869–056–00212–2)	34.00	Oct. 1, 2005
50 Parts:			
1–16	(869–060–00214–6)	11.00	[9] Oct. 1, 2006
17.1–17.95(b)	(869–056–00214–9)	32.00	Oct. 1, 2005
17.95(c)–end	(869–056–00215–7)	32.00	Oct. 1, 2005
17.96–17.99(h)	(869–060–00217–1)	61.00	Oct. 1, 2006
17.99(i)–end and 17.100–end	(869–060–00218–9)	47.00	[9] Oct. 1, 2006
18–199	(869–056–00218–1)	50.00	Oct. 1, 2005
200–599	(869–056–00218–1)	45.00	Oct. 1, 2005
600–End	(869–056–00219–0)	62.00	Oct. 1, 2005
CFR Index and Findings Aids	(869–060–00050–0)	62.00	Jan. 1, 2006
Complete 2006 CFR set		1,398.00	2006
Microfiche CFR Edition:			
Subscription (mailed as issued)		332.00	2006
Individual copies		4.00	2006
Complete set (one-time mailing)		325.00	2005
Complete set (one-time mailing)		325.00	2004

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2004 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2005 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JANUARY 2007

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
Jan 3	Jan 18	Feb 2	Feb 20	March 5	April 3
Jan 4	Jan 19	Feb 5	Feb 20	March 5	April 4
Jan 5	Jan 22	Feb 5	Feb 20	March 6	April 5
Jan 8	Jan 23	Feb 7	Feb 22	March 9	April 9
Jan 9	Jan 24	Feb 8	Feb 23	March 12	April 9
Jan 10	Jan 25	Feb 9	Feb 26	March 12	April 10
Jan 11	Jan 26	Feb 12	Feb 26	March 12	April 11
Jan 12	Jan 29	Feb 12	Feb 26	March 13	April 12
Jan 16	Jan 31	Feb 15	March 2	March 19	April 16
Jan 17	Feb 1	Feb 16	March 5	March 19	April 17
Jan 18	Feb 2	Feb 20	March 5	March 19	April 18
Jan 19	Feb 5	Feb 20	March 5	March 20	April 19
Jan 22	Feb 6	Feb 21	March 8	March 23	April 23
Jan 23	Feb 7	Feb 22	March 9	March 26	April 23
Jan 24	Feb 8	Feb 23	March 12	March 26	April 24
Jan 25	Feb 9	Feb 26	March 12	March 26	April 25
Jan 26	Feb 12	Feb 26	March 12	March 27	April 26
Jan 29	Feb 13	Feb 28	March 15	March 30	April 30
Jan 30	Feb 14	March 1	March 16	April 2	April 30
Jan 31	Feb 15	March 2	March 19	April 2	May 1